HEARINGS

BEFORE

THE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

OF THE HOUSE OF REPRESENTATIVES

ON

H. R. 20153, 21572, AND 22133,

ON THE SUBJECT OF

RAILROAD PASSENGER FARES AND MILEAGE TICKETS.

WASHINGTON:
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RAILROAD PASSENGER FARES AND MILAGE TICKETS.

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
HOUSE OF REPRESENTATIVES,
Washington, D., C., Tuesday, January 8, 1907.

The committee met this day at 10.35 o'clock a. m., Hon. William P. Hepburn in the chair.

The CHAIRMAN. Gentlemen, the special order to-day is the consideration of House bill 20153, the bill providing for the issuance of mileage books by railroads engaged in interstate commerce.

Mr. SHERMAN. Mr. Chairman, I suggest that we ascertain who are here desiring to be heard upon this bill, and upon which side they desire to be heard. I have notified the several passenger associations as to this hearing, as the committee knows, without any authority of the committee, of my own volition, and I have also notified the officers of the several commercial travelers' associations throughout the United States, and I have letters and telegrams from several of them saying they will be here. I think perhaps it would be well to ascertain who are here.

The CHAIRMAN. I think that is a good suggestion. Gentlemen, will you who favor the measure pending give your names to the clerk of the committee now, if you please, so that we can know who want to be heard and arrange for some procedure? Are there any persons here who favor this legislation?

Mr. MANN. Outside of the committee? [Laughter.]

The CHAIRMAN. That is understood. Is there any response?

Mr. BARTLETT. There seems to be an "offing."

The CHAIRMAN. Are there any gentlemen here who are in opposition to the legislation?

Mr. LEWIS E. PAYSON. Mr. Chairman, you will recollect that at the last meeting of the committee, when this matter was put, ex-Senator Faulkner and myself applied for a continuance of the hearing in order that preparations might be made for the proper discussion of the subject. In connection with the suggestion of the gentleman from New York I may say now, in order that the record may show it, that I appear here in opposition to this bill and others of the same character for the so-called Harriman lines, the Union Pacific system and the Southern Pacific system, aggregating about fifteen thousand miles.

Mr. CHARLES J. FAULKNER. There are a number of gentlemen here who are opposed to this bill and are ready to present their views to the Committee. I suppose the clerk can take the names of these gentlemen without my naming them all; in fact I would not be able to state all of them. I know Secretary Herbert is here, representing one of the roads, and the Rock Island is represented, and the Atche-

son, Topeka and Santa Fe is represented, the Denver and Rio Grande, and a number of those roads associated with it are represented. I do not know the others.

Mr. SHERMAN. Senator, are any passenger associations represented?

Mr. FAULKNER. They are represented through these gentlemen.

Mr. SHERMAN. Not as associations?

Mr. FAULKNER. I do not know whether they are represented as associations or not. I know some of them have been requested to speak for those associations. You will find that in the evidence when it is developed.

Mr. HILARY A. HERBERT. Mr. Chairman, I represent the Seaboard Air Line Railway in opposition to the bill.

Mr. FAULKNER. The Southern Railway is also represented here by the General Passenger Agent.

Mr. H. L. BOND, jr. I represent the Baltimore and Ohio.

Mr. SHERMAN. Let each gentleman write his name on a slip of paper, showing the road he represents, and hand it to the stenographer. We can then have it in the record.

Mr. PAYSON. I think each gentleman should announce who he is.

Mr. SHERMAN. The gentleman who represents the Baltimore and Ohio will give the stenographer his name.

Mr. H. L. BOND, jr. My name is H. L. Bond, jr., Second Vice President of the Baltimore and Ohio

Mr. T. B. HARRISON, jr. I represent the Louisville and Nashville.

Mr. FAULKNER. I will offer two names to start the investigation with, and I think that is concurred in by Judge Payson and Secretary Herbert. First, Mr. Nicholson.

The CHAIRMAN. Is he present?

Mr. FAULKNER. Yes, sir.

The CHAIRMAN. Mr. Nicholson, we will hear you now

STATEMENT OF MR. GEORGE T. NICHOLSON, OF CHICAGO, THIRD VICE-PRESIDENT OF THE SANTE FE SYSTEM LINES.

Mr. NICHOLSON. Mr. Chairman and gentlemen, I represent the Santa Fe Railroad, and I am also on the committee representing the Western Passenger Association and the Southwestern Passenger Bureau.

Mr. RICHARDSON. What position do you hold in the railroad?

Mr. NICHOLSON. I am Third Vice-President of the Sante Fe system.

Mr. RYAN. You can fire away now.

Mr. NICHOLSON. It is my understanding that this hearing is primarily to consider H. R. bill 20153, which legislates for a universal mileage book of 1,000 miles denomination at 2 cents per mile flat, interchangeable between all United States railways, unlimited as to time, unrestricted as to class of trains, and redeemable "upon presentation at any ticket office of any railroad engaged in interstate commerce at their face value."

Such legislation, however, would have the prompt effect of establishing a maximum rate of 2 cents per mile for trip tickets between all points in the United States, whether State or interstate, even in advance of State legislation, which would be sure to follow as soon as the workings of the universal mileage ticket came to be understood. Such gross discrimination in favor of the citizen who is able to tem-

porarily invest $20 in his ticket and against the unfortunate citizen who could not do so should not and would not be allowed to continue. Bear in mind that the surplus in $20 over and above the cost of the immediate trip can be recovered at the journey's end upon presentation of unused coupons to the station agent.

H. R. bill 20153 therefore is just as effective in establishing a maximum rate of 2 cents per mile as is H. R. bill 21572 or H. R. bill 22133; and, with your permission, I will address much of my remarks to the question—"Is 2 cents per mile a fair and living rate for Western railroads?" I say "Western" not because I think such rate to be fair for "Eastern" roads, but because I am empowered to represent those in the West only.

Mr. Chairman, I do not know that you care to have me proceed on that line, of considering the other bills, or not?

The CHAIRMAN. Use your own pleasure about that. We usually consider allied bills when considering a particular bill.

Mr. NICHOLSON. The statement I have prepared is largely in behalf of the roads I represent, the Sante Fe Railroad System, whose lines are located, as I said, in the sparsely settled, arid, and semi-arid regions of the Southwest, though later on I was requested also to represent the railroads generally in the territory represented also by other gentlemen here; so that my remarks now will be largely as to the Sante Fe. But I will say that practically the same condition exists in practically all the railroads in that territory, and any statements that are true as to one are true also as to the others.

I first have a statement here showing the location of the mileage of the roads which compose the Sante Fe System in the different States and Territories through which they run. As a matter of information I will state that these roads in the Sante Fe System run in the States of Illinois, Iowa, Missouri, Kansas, Nebraska, Oklahoma, Indian Territory, Texas, Colorado, New Mexico, Arizona, and California. With the exception of some little mileage in Iowa and Illinois and Missouri, in a total of 8,500 miles, seventy-eight hundred odd miles are located west of the Missouri River, so that it is a far-western proposition mainly.

States and Territories.	Miles.	States and Territories.	Miles.
Illinois	290.76	Texas	1,483.20
Iowa	19.86	Colorado	406.85
Missouri	298.77	New Mexico	836.84
Kansas	2,606.02	Arizona	408.33
Nebraska	2.53	California	1,263.46
Oklahoma	612.49		
Indian Territory	215.61	Total	8,444.72

Of which 7,835.33 is west of Missouri River.

Before presenting the facts and figures which to us seem conclusive evidence that the reduction of fares proposed by H. R. 20153, and other bills, can not in justice be made, we wish to say a few words on some aspects of the passenger-fare question, which we believe have been misunderstood or whose importance has not fully been appreciated.

It is often argued that because a two-cent fare exists on a few of the great trunk lines that railroads generally should not be allowed to charge a higher fare.

This, to us, seems neither a valid nor a sufficient reason for taking away from the railroads of the Southwest a large part of their earnings from interstate business. The wide diversity of circumstances and conditions that prevails east and west of the Mississippi River is overlooked. This argument takes no account of the fact that in the communities that have a two-cent fare the local population is several times larger and the through travel many-fold greater than in the Southwest.

A rate that will not only cover expenses, but leave a fair margin of profit on the main line of the New York, New Haven and Hartford, the Pennsylvania, the New York Central and its connections, the Lake Shore and Michigan Central, would reduce the railroads of the West to less than the cost of service. These eastern railroads are the great highways of the continent. Over these roads run the great tide of through travel and a vast volume of mail and express.

Where passenger business is light, as it is in the West, it can not be handled with profit at as low rates. A light traffic means few trains with but few people in them. With a large traffic only is a low fare possible. This is true because with a large volume of business, if competition is not excessive, the number of persons in each train will be comparatively high and there will be many trains. The cost of maintaining and operating the road can thus be divided among many trains, each of which is able to bear its share of the total expense of running the road.

The point I wish to make there, Mr. Chairman, is this: That it is absolutely impossible for any one to establish a fixed rate, whether it be one cent, two cents, three cents, ten cents, or any other figure, per mile. If it is conceded to be fair to the railroads in the thickly-settled portions of the United States, the same rate can not and will not be fair under any circumstances to the roads serving the sparsely-settled regions. There is no such thing as fixing a uniform rate that is fair to all. It will either be unjustly low to a part of the roads, or unjustly high to the roads having the larger volume of business.

This being true, the number of passengers carried per mile of railroad, or as it is commonly called, the density of traffic, is of the greatest importance. It means to a railroad all that a big output signifies to a manufacturing plant. Indeed, it is of much greater significance, for there probably is no other business that has so many fixed expenditures that must be made, regardless of the volume of business transacted as the railroad.

The volume of traffic per mile of railroad will show all differences of density of population per mile of railroad, of location of road with respect to through routes of travel, and all differences in industrial life. Much might be written about the greater density of the population of the Eastern and Middle States, and of their greater population per mile of railroad, and of their favorable location with respect to through travel, and of the fact that the people of manufacturing and trading communities must necessarily, in the course of business, travel more than the people of the agricultural and grazing States and Territories of the Southwest, but a bare statement of the facts will, I think, suffice.

Are the fares paid in the Southwest relatively as low as those paid in the States of the East? They certainly are if due allowance is made for differences in the volume of travel and for variations in the

number of persons in trains, and a comparison, to be of value, must give proper consideration to these divergences, for it makes all the difference in the world whether there are forty or fifty or seventy-five passengers in a train and whether there are two or four or eight or a dozen or more trains daily.

In order that that may be understood a little more, you gentlemen, of course, know that the standard rates of fares differ in the various States and Territories of the United States. In some of the Eastern States the rate is now as low as 2 cents a mile by State legislation; but generally throughout the East they are not as low as 2 cents a mile. They range between 2 cents, 2½ cents, and 3 cents. On the Western roads in the territory I represent, on the lines west of the Mississippi River, you go as far as the Rocky Mountains on a 3-cent basis, and when you get into territory such as New Mexico and Arizona and part of California and Idaho and Utah you get into the 4-cent rate. It used to be more than 4 cents. Recently heavy reductions have been made by railroads serving that section.

Mr. MANN. Take the cost of a winter ticket from Chicago to Los Angeles now, for example.

Mr. NICHOLSON. It is $110 a round trip.

Mr. MANN. What is the distance by your road?

Mr. NICHOLSON. 2,265 miles.

Mr. MANN. How much is that per mile?

Mr. NICHOLSON. For that road it is practically 2 cents a mile.

Mr. MANN. Of course, if you do not mean 2,200 miles.

Mr. ESCH. It is double that for the round trip.

Mr. NICHOLSON. That is not the trip they take.

Mr. MANN. You do not mean 2,200 miles for the round trip?

Mr. NICHOLSON. It is 4,500 miles for the round trip.

Mr. MANN. What you receive is 2 cents a mile?

Mr. NICHOLSON. There is not any ticket in the world that covers the diversity of routes that these round-trip tickets cover. You can ride both ways or one way. The mileage does not represent the average mileage given to each purchaser of one of these tickets. A purchaser may go down to Santa Fe and to Los Angeles and then up to San Francisco and come east to Denver and Chicago.

Mr. MANN. What is the distance the longest way he can go on a ticket to cost $110?

Mr. NICHOLSON. To be accurate, I should have to make some figures, but I should say it would probably be considerably over 5,000 miles. There are other gentlemen here, probably, who can make that calculation more closely than I can.

The CHAIRMAN. Proceed, Mr. Nicholson.

Mr. NICHOLSON. The average number of passengers in the trains of the New York, New Haven and Hartford Railroad during the year 1905 was 76 and the trains were not long, the average number of passenger cars in a train being but 4.28 cars. With so many persons in each train one would of course expect lower fares than on the roads of the Southwest, and especially when the much larger number of trains run by the New Haven is considered.

The great diversity in the density of travel, and in the average passenger train load, and in the number of trains run, and in the passenger train earnings per mile of road of the great railroad systems in the thickly peopled parts of the East and on the Santa Fe lines is

made clear by the following table compiled from the annual reports of the companies for the fiscal year 1905, showing the number of passengers carried one mile per mile of line, the average number of passengers in a train, the average number of passenger trains daily over each mile of line, and the passenger train earnings per mile of line.

Mr. SHERMAN. Is it not a fact that the New York, New Haven and Hartford road is the only road in the country whose passenger earnings amount to more than one-half of their receipts?

Mr. NICHOLSON. I think that is so. First, I will state what the Santa Fe earned, so that you can see how these figures compare. The Santa Fe earned $23,900 per mile—a little bit less than $24,000 per mile.

Mr. KENNEDY. With its passenger traffic alone?

Mr. NICHOLSON. Yes; sir. On the New Haven road the earnings were $11,634. On the New York Central road the earnings were $9,028.

Mr. MANN. This is per mile of single track?

Mr. NICHOLSON. Yes; sir. The New Haven is given at 2,075.45 miles. The New York Central is 3,471.5 miles.

Mr. MANN. That is based on the supposition of a single-track road?

Mr. KENNEDY. Where is it double track they do not count the distance twice, do they?

Mr. NICHOLSON. It is their mileage earnings. They may have one, or eight, or ten tracks. On the Lake Shore road it is 7,231 miles. On the Pennsylvania it is 6,846 miles.

Mr. ESCH. You mean dollars instead of miles?

Mr. NICHOLSON. Yes; dollars, I should say. Yes; I beg your pardon. On the Santa Fe road we have an average of 4.7 passenger trains daily over each mile of line, or a little bit less than five trains daily over each mile of railroad. That would be 2½ miles each way. On the New Haven they have over 20; on the New York Central, 18; on the Lake Shore, nearly 13; on the Pennsylvania, over 16.

System.	Number passengers carried 1 mile per mile of line.	Average number passengers in a train.	Average number passenger trains daily over each mile of line.	Passenger train earnings per mile of line.
New Haven (2,075.45)	566,450	76	20.2	$11,634
New York Central (3,471.5)	421,689	65	18.5	9,028
Lake Shore (1,520.4)	243,300	53	12.9	7,231
Michigan Central (1,699.6)	146,697	45	9.2	3,914
Pennsylvania R. R. (3,839.1)	340,003	58	16.1	6,846
Santa Fe (8,305.4)	89,520	52	4.7	2,390

Mr. KENNEDY. Can you give the earnings of your road, including freight, per mile?

Mr. NICHOLSON. On the Sante Fe?

Mr. KENNEDY. Yes.

Mr. NICHOLSON. Well, I can compute that for you.

Mr. KENNEDY. You can approximate it, can you not?

Mr. NICHOLSON. Yes, sir. The earnings are approximately $73,000,000; the mileage is approximately 8,500.

Mr. SHERMAN. Mr. Nicholson, let me ask you this: Is it not a fact, for instance, as to the New Haven road, the New York Central, the

Pennsylvania road, and many others, that by reason of the special commutation rates that they give to a very large percentage of their daily travelers, the average rate charged per mile is considerably below 2 cents?

Mr. NICHOLSON. I can not say but what that is true. I do not know what their average is.

Mr. GEORGE W. BOYD, general passenger agent of the Pennsylvania Railroad. I would like to say for the Pennsylvania Railroad, if you will pardon the intrusion, that our percentage of commutation travel is very small as compared with the whole, and while it reduces the average rate slightly, it is not an important factor in that connection.

Mr. LOVERING. Do you refer, Mr. Nicholson, in your figures to the trackage or mileage?

Mr. NICHOLSON. I refer to the trackage.

Mr. LOVERING. Three thousand four hundred miles of New York Central means trackage?

Mr. NICHOLSON. It is taken from their time cards. From New York to Buffalo they have several tracks. It does not make any difference whether the train runs over one or two tracks, or in any other way.

Mr. LOVERING. Do you say that the New York Central has 3,400 miles of mileage?

Mr. NICHOLSON. Three thousand four hundred and seventy-one miles.

Mr. KENNEDY. That is the mileage you would have to pay to ride over all its lines?

Mr. SHERMAN. Do you include the Lake Shore in that?

Mr. NICHOLSON. No, sir. That is separate.

Mr. SHERMAN. Why don't you include the Lake Shore if you include the Boston and Albany? Do you include the Boston and Albany?

Mr. NICHOLSON. I did not make up any of the statistics. The purpose of these statistics is simply to show that the amount of money we took in per mile of railroad for passenger business was so much less than that taken in in populous sections of the country.

Mr. SHERMAN. But you do not make it clear whether or not you are figuring on trackage or mileage.

Mr. RYAN. The New York Central and all its branches, he means.

Mr. WANGER. What is your figure for mileage on the Pennsylvania?

Mr. NICHOLSON. 3,839 miles.

Mr. WANGER. Does that represent single tracks or multiple tracks?

Mr. BOYD. I am passenger agent of the Pennsylvania. That represents the one-way distance, not the actual mileage. It is approximately, as I remember, 12,000 miles. The figure he gives represents the one-way distance. It does not represent the sidings or double-trackage mileage.

Mr. KENNEDY. That includes the Pennsylvania Company?

Mr. BOYD. That means trackage. There may be 5,000 miles of track.

Mr. SHERMAN. What goes to make up that mileage of the New York Central?

Mr. FAIRLAMB. The New York Central proper, the Boston and Albany, the Watertown and Ogdensburg, the West Shore, the Mo-

hawk, the Auburn branch, the Adirondack Division, and what is known as the Fallbrook Division, running down through Williamsport and west through Clearfield, Pa.

Mr. SHERMAN. It does not include the Lake Shore?

Mr. FAIRLAMB. It includes no line west of Buffalo except the line at Niagara Falls and Suspension Bridge.

Mr. RICHARDSON. I understand that two cents per mile would mean bankruptcy in certain sparsely-settled regions, while at the same time it might mean profit in others?

Mr. NICHOLSON. Yes. While it may be fair in the East, that same figure would be unfair in the West; yes.

Mr. RICHARDSON. The application of a two-cent rate to roads situated under different conditions would be very unfair, and that would apply to the railroads of the far Western States as well as of those of the Southern States?

Mr. NICHOLSON. Yes.

Mr. CUSHMAN. The original construction cost the railroads in the Rocky Mountain region, and also the cost of operation is very much greater than in the East?

Mr. NICHOLSON. I am not an operation or a construction man, but I suppose that railroads constructed now are probably more expensive than those constructed at any other time in the history of the country. The Western roads are constructing roads now, and the people want them to construct more roads all the time. The present is the most expensive period of construction. I could not answer that question whether it is more expensive in the West than in the East to build railroads.

The CHAIRMAN. It would be wise procedure, perhaps, to let this gentleman get through with his remarks. If we keep constantly interrupting and diverting him from the line of his argument it will prolong the proceedings. If we first let him get through it will be more expeditious. I make that as a general suggestion, not referring to anybody particularly.

Mr. RICHARDSON. That may refer to me.

Mr. SHERMAN. And to me [laughter].

Mr. NICHOLSON. The figures of this table show that the fares prevailing in the West are less profitable than those prevailing in the East when all essential facts are considered. It must be remembered that 2-cent fares exist on only a very small part of the mileage of the great systems of the East; the average is much nearer 3 than 2 cents per mile. Also that great reductions have only recently been voluntarily made in the fares of Colorado, Arizona, California and other far Western territory, not because of any public demand, but because the railroads themselves recognized that the increased population and travel warranted the reduction. Similar voluntary action has been taken by them at various opportune times in the past, as witness the reduction in New Mexico and Arizona from 10 to 8, from 8 to 6, from 6 to 5, and from 5 to 4 cents per mile during the past twenty years.

We were charging 10 cents per mile when I first went out there. We reduced it without legislation from 10 cents to 8 cents, and from 8 cents to 6 cents, and from 6 cents to 5 cents, just as the traffic would permit us to reduce the fare; and we take the position that we are in constant touch with the Western situation, and just as soon

as we can afford to make reductions from the present rate we will do it voluntarily—for the selfish purpose of making more money. But we do not believe that the time has yet come when we can afford, voluntarily or otherwise, to establish as low a rate as 2 cents a mile.

Here is a little table showing the population and railway mileage. New York has 937 population for each mile of railway. Massachusetts has 1,414; Pennsylvania has 611; New Jersey has 884; Connecticut 954. These are large figures. Now, getting down to the territory of the road which I represent, sirs, taking them in the order from east to west, Illinois has 443, Iowa 242, Missouri 430, Kansas 178, Nebraska 196, Colorado 116, Indian Territory 165, Oklahoma Territory 163, Texas 275, New Mexico 84, Arizona 75, California 253. That is all that we have to draw on. If we hauled free all the people we could haul, that is all we would have to draw from. You can not make business unless there is a demand for it.

Population and Railway Mileage.

State or Territory.	Number of people to each mile of railway.	State or Territory.	Number of people to each mile of railway.
Illinois	443	New Mexico	84
Iowa	242	Arizona	75
Missouri	430	California	253
Kansas	178	Connecticut	954
Nebraska	196	Massachusetts	1,414
Colorado	116	New York	937
Indian Territory	165	New Jersey	884
Oklahoma Territory	163	Pennsylvania	611
Texas	275	United States	379

Mr. MANN. When you say you have nobody to draw on for the traffic except people living in New Mexico and Arizona it sounds almost as though you intended it for a joke.

Mr. NICHOLSON. What else do you have?

Mr. MANN. We have a great many people from Chicago who go there.

Mr. NICHOLSON. That is Illinois.

Mr. MANN. You have a great many people from New York.

Mr. SHERMAN. You have a great many people who travel from New York and Massachusetts and Connecticut?

Mr. NICHOLSON. Yes, sir; but it is a very small part of the passenger earnings. In every Western road it is a small portion.

Mr. JOHN SEBASTIAN, traffic manager of the Rock Island road. Fifteen per cent.

Mr. NICHOLSON. Yes; that would be a large percentage. It is in the smoking cars and chair cars that you get your money, and you have got to get that on the local traffic. On the subject of free transportation it is sometimes said that if the railways would cut off all free transportation, they could well afford to carry passengers for 2 cents a mile. This is wide of the truth. The effect on earnings that would follow the discontinuance of passes other than for railway employees is greatly overestimated. First, because the amount of complimentary transportation is not so large as is generally supposed; and, second, because if all complimentary passes were withheld very

few of the persons who now get them would travel as freely. On the Santa Fe the total use of all free passes other than for railway employees amounts to but 2½ per cent. of the volume of travel. This is entirely too small to be fairly considered a substantial offset to the reduction proposed in the bills now under consideration. I estimate a rate of 2 cents a mile would reduce the earnings of the Santa Fe system 25 per cent.

There would be no gain in stopping the practice of issuing exchange passes, for what a railroad would gain on one hand it would lose on the other. Payments in cash would take the place of payments in kind. What a railroad would receive from the officials of the other roads would be offset by what its officials would pay on other roads.

The bulk of free transportation is issued to railway employees and the members of their families. On the Santa Fe system this travel is about 12½ per cent of the total.

On the Santa Fe I had some statistics made for one month. We do not keep this class of statistics all the year around, but I had them made for the month of June, 1906, and on the Santa Fe the total issuance of passes amounts to 2½ per cent of the volume of traffic.

I have here also a statement which has just been issued by the Texas State commission on that subject. Under date of July 15, 1904, they called upon all the Texas railroads to give them the statistics upon which they could base this general statement. They first called for the Statement No. 1, showing the free transportation to officials, agents, and employees of other railroads, including express and telegraph companies and steamship lines; second, to employees and members of their families of the company making the report—those classes coming under the term "employees;" third, transportation on account of newspaper advertising; fourth, to public officials, clerks, etc., United States, State, county, and municipal governments; fifth, to other persons, charities, religious, personal, etc.

They issued a report for the fiscal year ending June 30, 1905, covering all lines in the State of Texas. I have not the official document here, but these were telegraphed figures sent me from advance copies of that report. Without reading you the mileage, because the figures are large and confusing, I will state that they show that of the total passenger traffic of the State of Texas, that is, one passenger one mile, 13.5 per cent was deadhead or free. Of that, 2.66 per cent came under the first class, that is, exchange of transportation for railway officials, and agents and employees of connecting railroads, including express company employees; the second, which was employees and members of families of the company making the report and their officers, was 7.42 per cent; the third, the newspaper advertising, was 1.11 per cent; the fourth, public officials, ninety-five one-hundredths of 1 per cent; fifth, all other persons, charities, and so on, 1.38 per cent.

Report of Railroad Commission of Texas of deadhead mileage.

Copy.] GALVESTON, *January 2, 1907.*

Mr. W. J. BLACK,

Care Atchison, Topeka and Santa Fe Ry., Chicago, Ill.

DEAR SIR: Your wire 1st with reference to statement issued by the railroad commission of Texas on the question of free transportation. Under date of July 15, 1904, the commission issued an order requiring all roads to open and keep a record showing for

each month the number of free passes issued to persons good over the whole or a portion of such railroad, the entries on such books to show the information classified as follows:

1. In exchange: Transportation to officials, agents, and employees of other roads, including express and telegraph companies and steamship lines.
2. To employees and members of their families of the company making report.
3. Account newspaper advertising.
4. To public officials, clerks, etc., United States, State, county, and municipal governments.
5. To other persons, charity, religious, personal, etc.

These five items are subdivided into three classes: Annual, time, and trip passes. The following are the figures of the several classes for the fiscal year ending June 30, 1905, for all lines in Texas:

	Miles.
1	19,665,911
2	54,919,353
3	8,234,864
4	7,049,563
5	10,170,516
Total	100,047,989

These figures, as compared with the total number of miles traveled, both revenue and deadhead, show the following percentages:

	per cent.
1	2.66
2	7.42
3	1.11
4	.95
5	1.38
Total	13.52

From the foregoing you will note that your information, that of the 13 per cent of the entire passenger travel all but a fraction of over 2 per cent consisted of railway employees, is somewhat in error, as all other classes show a total of 6.10 per cent, while employees carry 7.42 per cent. As soon as we can get the report of the commission for the fiscal year ending June 30, 1906, I will give you the figures for the last year, unless these figures will answer your purpose.

Yours, truly,

W. S. KEENAN.

So, I will say in my argument here, if you cut off this complimentary transportation of others but railway employees and advertising in the State of Texas it would be 2½ per cent. My estimate, made prior to the receipt of that report, from our own figures, was 2½ per cent, so, you will see, there is a very good check there.

On the Sante Fe, as I said before, the total issue of all free passes other than to railway employees and officials amounts to two and one-half per cent of the volume of travel. This is entirely too small to cut much figure in offsetting a material reduction in the total amount of passenger earnings. At the proper time I can state how I arrive at these figures. As I said, there would be no gain in the practice of exchanging passes—in the abolition of the practice of exchanging passes—for what they gained on one hand they would lose on the other. What the railroad would receive from officials of other roads would be offset by what its officials pay on those other roads. The bulk of free transportation is issued to the railway employees and members of their families. On the Sante Fe System that free travel is twelve and one-half per cent of our total.

Because the passenger business has largely increased during the last few years some people are now calling for a reduction of passenger fares. These people give little consideration to the other side of the account. The increased earnings have not been gained without

greater increase of expenditures. We have had to run more and better and faster trains, and all the accessories of train and station service have been improved. The comfort of the traveler has been promoted by the erection of many first-class station buildings, hotels, and eating houses. Travel is safer and more comfortable, because roadbed has been largely rebuilt and because rolling stock has been greatly improved, and there is now more frequent inspection of track and equipment. Track has been straightened, grades have been removed, heavier rails have been laid, double track has been constructed, stronger bridges have been built, block signals have been erected, and interlocking plants have been installed where separation of grades was impossible; more powerful locomotives have been added in large numbers, stronger coaches with improved air-brakes, automatic couplers, gas and electric lights, and wide vestibules. These improvements involve large initial expenditures and their maintenance is a continued heavy expense.

Wages and material are continually higher and the end has not been reached. Engineers, firemen, conductors, brakemen, flagmen, and other classes of employees have submitted demands which, if granted, will increase the wages of these employees approximately 20 per cent.

I doubt if it is generally appreciated how rapidly the prices of the principal commodities consumed by the railroads have shot skyward. The railroads have been hit hardest by the upward movement of prices. I venture to predict that if the whole list of prices of things used in large quantities should be searched no other increase equaling that of railroad ties would be found. The table which follows, prepared from the company's own records, will convey some idea of what the general increase has been. At first pine ties used to cost us 18 cents; now they cost us 56 cents.

Mr. Esch. Is that due to the fact that you creosote them?

Mr. Nicholson. No, sir; it is the cost of the ties.

Mr. Mann. You mean the cost of the ties free on board?

Mr. Nicholson. Yes, sir; you take pine lumber, which anybody can buy and which we have to use in large quantities, it is 10 per cent higher.

Mr. Ryan. Was it unusually low in 1897?

Mr. Nicholson. Yes; we invaded a large lumber territory in Texas and Louisiana. Here is a table of comparative prices:

Comparative prices.

Commodity.	1897 prices.	1906 prices.	Increase.
Pine ties:			*Per cent.*
Sawn	\$0.18	\$0.56	211
Hewn	.19	.52	174
Oak ties, hewn	.35	.65	86
Low-grade yellow pine (per 1,000 feet)	10.50	22.00	110
High-grade yellow-pine lumber	17.75	31.50	77
Steel rails (per ton)	18.00	30.80	71
Spikes (100 pounds)	1.475	2.00	36
Track bolts (100 pounds)	2.20	2.80	27
Bar iron (100 pounds)	1.20	1.90	58
Coal, Frontenac lump (ton)	1.14	1.70	49
Nails (100 pounds)	1.45	2.00	38
Car wheels (cast iron, 600 pounds)	6.00	8.55	43

Mr. BARTLETT. That is in the past ten years?

Mr. NICHOLSON. That was in the year 1906—this present year—or, rather, the past year, compared with 1897.

Mr. CUSHMAN. Nine years ago.

Mr. STEVENS. Have you made a corresponding increase in the volume of your passenger traffic?

Mr. NICHOLSON. That is under the period of the reconstruction of the Santa Fe.

Mr. STEVENS. I say, have you made a corresponding increase in the volume of your passenger traffic?

Mr. NICHOLSON. For that period?

Mr. STEVENS. Yes.

Mr. NICHOLSON. No, sir; but the volume of passenger traffic shows 100 per cent increase, and our rates are lower than they were. I have some figures showing, or attempting to show, the cost of operating our passenger trains.

The actual absolute respective cost of doing the passenger and freight business can not be ascertained. Expenditures such as maintenance of way and structures, superintendence, wages of officials and employees not specifically assigned to passenger or to freight service—such as switchmen, flagmen, watchmen, trackmen, laborers, etc., which are common and can not be apportioned with exactness, but must be apportioned according to some fair rule. For several years the Santa Fe has, for its own information, made such apportionment of its own expenditures as between passenger and freight. We have followed the rule which was observed by the Interstate Commerce Commission until they found, for some reason, that it was not necessary for them to continue to make those figures up, and they ceased to publish them for some years. So long as they did follow them they had this basis:

1. Total earnings of passenger trains from all sources, i. e., mail, express, etc.
2. Cost of operating passenger trains.
3. So-called net earnings.
4. Taxes.
5. So-called net earnings less taxes.
6. Interest on bonds.
7. So-called net earnings less taxes and interest on bonds.

Taxes and interest are divided between passenger and freight on the basis of train mileage. Mixed trains are divided on the basis of cars in the trains.

For the fiscal year ending June 30, 1906, of our total expenses of operation 52.97 per cent could be located and assigned with certainty either to the freight or to the passenger train service; 35.89 per cent were common expenses and divided on the basis of train, car, and engine mileage, and 11.14 per cent could in part be located and in part could not. These last expenditures were assigned on train-mileage basis.

What we term the Atcheson, Topeka and Santa Fe Railway system up to the end of the fiscal year 1906 did not include several lines largely owned but operated separately. If the statistics of these smaller lines were available and were included the showing of the system would be even poorer.

I give you figures for the fiscal year ending June 30, 1906—the best year from a traffic standpoint we ever enjoyed. I do not want to make this an advertisement of the Santa Fe, gentlemen, but here

is a map, and if any of you do not know where we run, this will assist you, showing you what I am talking about. [Submits map.]

This is the apportionment we have made. The first was the Southern Kansas Railway of Texas. That went down here [indicating on map] to the old Staked Plains and to Pecos, in Texas. On that road the total earnings of passenger trains per mile of track was $816. In the cost of operating we embrace every item we could locate as being definitely charged to freight or passenger expense, and the interlocked items, general items, my salary and the president's salary, and the switchman's salary, were divided on the basis of the passenger and freight trains, or on the wheelage. Now, we earned $816 a mile. That is a fixed fact. It cost us $902 per mile to run those trains.

Mr. PAYSON. What was the cost there, again? Let me have that again, please, in order to put it down.

Mr. NICHOLSON. Nine hundred and two dollars was the cost, and $816 was the earnings.

Mr. MANN. Are you running a sort of eleemosynary institution down there? [Laughter.]

Mr. STEVENS. What would you say would be the average rate per mile on that line that you just described?

Mr. NICHOLSON. The average rate on that line in the Territory of New Mexico is now 4 cents a mile. For such of it as is located in Texas and in the State of Kansas it is 3 cents a mile.

Mr. BARTLETT. That is an average of 3½ cents all over.

Mr. WANGER. What is the Colorado rate?

Mr. NICHOLSON. It is 3 cents a mile on the line between Denver and Colorado Springs, and between Denver and the East, and in the mountain regions to the West it is, I should say, approximately 4 cents.

Major HOOK, of the Rio Grande. The maximum is 5 cents.

Mr. NICHOLSON. On the Gulf, Colorado and Santa Fe, that is from Russell, Ind. T., through Gainesville, Tex., down to Houston and Galveston, a territory with which you gentlemen are conversant, with its branches, our passenger earnings per mile of railroad were $1,873, and the cost of operating those trains was $1,803, leaving $70 net, leaving the reduction of taxes and its share of the interest of the bonded debt on precisely the same basis, and it shows that the Gulf, Colorado and Santa Fe in the most favorable passenger year it ever had lost over $22 per mile on its business.

Mr. RUSSELL. Do you include in that estimate anything you got to carry the mails?

Mr. NICHOLSON. In these passenger earnings? No, sir. The mail earnings down there—I would not care to say what they are.

Mr. RUSSELL. That is not included?

Mr. NICHOLSON. No, sir.

Mr. MANN. Before you are through will you tell how you divide passenger earnings as distinguished from express and mail earnings on the same train?

Mr. NICHOLSON. These are made up by my statistician. Beg pardon, gentlemen; I was mistaken; the statement covers the earnings of the passenger trains, whatever was on the train.

Mr. STEVENS. That is express and mail, too?

Mr. NICHOLSON. Yes; that takes in the whole thing. On the system, as a whole, that is on the 8,400 miles of railroad, the total

earnings of passenger trains, from all sources—mail, baggage, and express—was $2,648.58 per mile. The cost of operation on the basis I have described was $1,930.36, leaving as net so-called earnings, $718.22, out of which, deducting its share of the taxes, $113.15, its share of the interest on the company's bonds, $566.96, there is left as applicable to the sinking fund and for dividend purposes on the common and preferred stock, $38.11 per mile of railroad.

Southern Kansas Railway of Texas (129.17 miles).

Per mile of line.	Fiscal year 1906.
Total earnings of passenger trains from all sources	$816.58
Cost of operating passenger trains	901.97
So-called net earnings	[a] 85.39
Taxes	17.77
So-called net earnings, less taxes	[a] 103.16
Interest on bonds	193.16
So-called net earnings, less taxes and interest on bonds	[a] 296.32

[a] Indicates deficit.

Gulf, Colorado and Santa Fe Railway (1,433.86 miles).

Total earnings of passenger trains from all sources	$1,873.13
Cost of operating passenger trains	1,803.07
So-called net earnings	70.06
Taxes	47.17
So-called net earnings, less taxes	22.89
Interest on bonds	425.14
So-called net earnings, less taxes and interest on bonds	[a] 402.25

[a] Indicates deficit.

Atchison, Topeka and Santa Fe Railway System (8,433.99 miles).

Total earnings of passenger trains from all sources	$2,648.58
Cost of operating passenger trains	1,930.36
So-called net earnings	718.22
Taxes	113.15
So-called net earnings, less taxes	605.07
Interest on bonds	566.96
So-called net earnings, less taxes and interest on bonds	38.11

Mr. RUSSELL. How do you make up your expenses as charged against the profits?

Mr. NICHOLSON. Every item of expense on the railroad is included. Here are two pages, showing them [indicating foregoing tabular statements].

Mr. RUSSELL. How do you get the proportion chargeable to the passenger traffic as distinguished from the freight traffic?

Mr. NICHOLSON. Every item that is locatable either to the passenger or freight traffic is absolutely charged to that item; most of the expenses of the trains, the train crews, the engine, the men on the engines assigned to the passenger service, the labor, cars, and engines, everything that can be located.

Mr. RUSSELL. In these items is there anything in the way of investment to keep up the track?

Mr. NICHOLSON. Such items as keeping up the track, maintenance, official salaries, and salaries of all masses or classes of employees that are working for both departments, switchmen, and all that sort of

thing, go in the common pot and are divided on the basis of the train mileage between the two. That is, as I say, the basis on which the Interstate Commerce Commission operated.

Mr. BARTLETT. Which is the proportion, 53 or 47, the passenger or freight?

Mr. KENNEDY. You deduct, as I understand, the interest on the floating debt?

Mr. NICHOLSON. I said 53 per cent could be definitely located by their character and assigned to either freight or passenger traffic. The 47 per cent was of this common class, which were distributed over both departments.

Mr. KENNEDY. But in this last deduction of the taxes and the interest on the debt you take all that from this passenger traffic, or do you take it proportionately only?

Mr. NICHOLSON. In the same share with the other expenses when divided.

Mr. RYAN. Divided according to mileage?

Mr. NICHOLSON. Yes, sir.

Mr. KENNEDY. The passenger traffic is largely incidental to the freight business, is it not? Most of your travel is by salesmen out in business along the road, drumming up the business which makes the freight traffic?

Mr. NICHOLSON. No, sir. That is what the commercial travelers tell you, but it does not cut much ice in our business.

Mr. MANN. Of course in your own business it does not make much difference how your bills are divided between passenger and freight raffic, because the bills have to be paid anyway, but is not that division of expense unjust to the passenger business?

Mr. NICHOLSON. I do not think so. I do not know of any fairer business than that.

Mr. MANN. Is not a freight train in its passage over the road more destructive to the roadbed and right of way than a passenger train?

Mr. NICHOLSON. By train mileage, you understand, Mr. Mann, the wheelage goes in, and it is a combination that is worked out by the statistician.

Mr. MANN. I do not understand that the train mileage means wheelage.

Mr. NICHOLSON. If I did not so state, I wish to be understood that way. I would say again, 52.9 per cent of our expenditures were definitely located as being either freight or passenger. There is no estimate about that. That is a fact. Thirty-five and eight-tenths per cent are classed as common expenses, and were divided on the basis of train, cars, and engine mileage. All three factors enter in. There was 11.14 per cent which could be located in part and in part could not, and this was located on the train-mileage basis, so that it is a basis than which we have no better. I think it is the fairest basis that can be figured out. These statistics which I have given you in regard to this matter, gentlemen, were not prepared for this occasion. They were taken from our records, and we have kept them in this way for several years for our own information. In fact, we have kept them up ever since the Interstate Commerce Commission ceased to call for them. Even during 1906, a year of extraordinary prosperity, the total earnings from all sources of the passenger trains of the Southern Kansas Railway of Texas did not equal the bare cost of operation, this branch of

the service making no contribution whatever toward the payment of taxes and interest on the bonded debt, to say nothing of dividends on the stock.

The total earnings from all sources of the passenger trains of the Gulf, Colorado and Santa Fe Railway were slightly in excess of the cost of operation and taxes. The contribution of the passenger-train service toward the payment of interest on the bonded debt was, however, very small, being only $22.89 per mile of road. Of course no contribution was made toward dividends.

For the system as a whole the total earnings from all sources of the passenger trains equaled the cost of operation, the share of the taxes and of the interest on the bonds, properly chargeable to the passenger-train service, and a very small contribution toward the payment of dividends on the preferred stock. None on the common.

This it must, however, be noted, is the best showing the system has ever made. During the fiscal year 1905, which was also a good year, the total earnings from all sources of the passenger trains fell $263.79 per mile of road short of meeting the cost of operation and the share of the taxes and of the interest on the bonds properly chargeable to the passenger-train service, and allowed nothing for dividends.

There were several groups of railways in the sparsely populated regions of the Southwest which were closely allied to the Santa Fe system, but which were independently operated. Some of them, namely, the Denver, Enid and Gulf Railroad, the Pecos Valley lines, and the Santa Fe, Prescott and Phoenix Railway, are now embraced within the system.

The passenger business of these lines is very light, and if it were possible to compare the earnings of the passenger trains and the cost of the service the result would be very unfavorable; but unfortunately the expenses of these roads have not been separated between the passenger and the freight-train service. The earnings and the cost of passenger-train service can not, therefore, be contrasted, but if this were possible it is safe to say that the net results would not be more favorable than those of the Southern Kansas Railway of Texas and the Gulf, Colorado and Santa Fe.

Mr. ESCH. Can you tell the capitalization and bonded indebtedness without difficulty?

Mr. NICHOLSON. This shows that our interest on the bonded indebtedness was $10,226,000. I do not know what the amount is.

Mr. ESCH. Do you know the rate?

Mr. NICHOLSON. No, sir.

Mr. ESCH. Could you supply that information some time and give it to us?

Mr. NICHOLSON. Yes, sir. I would be very glad to.

On our branch-line passenger trains—and this is true of every railroad—the service at the rate now charged is not self-sustaining. Earnings are now so low that any reduction of rates means a reduction in the number and frequency of trains. We do not expect to get the cost of operating the trains on some of our branch lines. If we waited until we did do that we would have to quit operating the branch until the people went out there to live. If we did, it would make it just so much more burdensome and so much the more necessary to reduce the frequency of those trains, because when you get to cutting expenses you have to cut where it will hurt the least. Here we have

three, six, nine, twelve branches of our railroad in the State of Kansas, in one State alone, where our passenger trains earn, say, from 30 to 70 per cent of the cost of running the trains. I can give you the figures in detail, but they will be rather burdensome to you to listen to.

Average train-mile earnings from passenger (mail, express, etc., earnings not included) of representative local trains for the two weeks ending July 22, 1906.

Train No.	From—	To—	Miles.	Average earnings from passenger per train mile.
307	Strong City	Superior	157.8	$0.720
113	Florence	Winfield	73.0	.525
335	Florence	Ellinwood	98.7	.584
241	Chanute	Pittsburg	54.0	.712
245	Chanute	Pittsburg	54.0	.545
266	Emporia	Moline	84.4	.460
225	Havana	Cedarvale	39.0	.228
205	Ottawa	Gridley	56.0	.386
267	Chanute	Madison Junction	28.0	.308
207	Ottawa	Fredonia	94.0	.820
131	Ottawa	Lawrence	19.0	.570
133	Ottawa	Lawrence	19.0	.677

Average cost of operation, $1.05 per mile.

Mr. BURKE. Will lowering the passenger rate have any effect on freight rates? Might it increase the freight rates?

Mr. NICHOLSON. As to that, sir, I can say that they are largely separate propositions.

Mr. BURKE. You have to earn money enough to pay operating expenses, that is sure; and you are running at a loss on your passenger business, and if you have a maximum rate that makes you lose that much more, you might have to make it up, would you not, from some other branch of the service?

Mr. NICHOLSON. Yes, sir. I have an illustration of that right now. Since less than thirty days ago, at the request of the retail merchants of St. Joe, Mo., and other towns on that branch, we have had a train running over to Lexington Junction, about 40 miles long, through a sparsely settled section of Missouri. We put on that new passenger train.

We knew it would not pay but the people asked for it and we did it. It is earning us about 20 cents a mile. We knew we would lose money when we put it on but we want to keep it there and earn on it as much as we can. It is one of the things we do, as the Congressman says, "for the good of the country," and if you do not do anything yourself in a good way in that line the railroads will be considered as doing nothing. The railroads are on the black list, you know, and you will excuse us for——

Mr. RYAN. Blowing your own horn?

Mr. NICHOLSON. Yes. [Laughter.] The effect of a national 2-cent-fare law will not be confined to interstate business. There will necessarily be a general readjustment of State rates if interstate fares are reduced to 2 cents a mile. Local rates on purely State business will be reduced in the same proportion. That I can enlarge upon and explain if it is desired.

It will be impossible to charge more for the State haul from Chicago

to East St. Louis than for the interstate haul from Chicago to St. Louis or to charge more for the State haul from Topeka to Kansas City, Kans., than for the interstate haul from Topeka to Kansas City, Mo. It is impossible to maintain a higher rate for the short haul than for the long haul, the former being included in the latter, and consequently there would have to be a general readjustment of State rates, entailing a heavy loss.

Here, gentlemen, is a statement made up for one month, the month of June, 1906, and I made this statement expressly—I had it made expressly—because we did not keep these statistics all the time. This statement is made to show how much of our passenger traffic through the month of June was purely within the borders of each State, and not interstate, and it shows that out of our total earnings for that month of $1,617,788, $639,000 was purely State or purely Territorial; 38 per cent.

Mr. MANN. Is that passenger business?

Mr. NICHOLSON. Yes, sir.

Mr. MANN. Will you put in the record a statement as to each one of the States and Territories?

Mr. NICHOLSON. As I say, this was made up specially. I will leave this statement with the secretary, if you like. This was made only for one month, but I assume it is just as fair for the entire year or period.

Mr. MANN. That was made for your own benefit?

Mr. NICHOLSON. If you gentlemen passed a law requiring us to take two cents a mile for interstate business and said nothing as to what we should do in the case of State business, the effect of it would be to reduce our earnings on this 38 per cent of purely State business, and if our earnings would suffer a 35 per cent reduction it would mean that for the Santa Fe alone it would reduce our earnings on State business alone $1,270,000 a year, whereas there might not be a word in the law requiring it. Still that would be the logical effect; it would necessarily result, despite our best efforts.

Passenger earnings of the Atchison, Topeka and Santa Fe Railway system, Pecos lines, and Santa Fe, Prescott and Phoenix.

MONTH OF JUNE, 1906.

Atchison, Topeka and Santa Fe Railway system	$1, 617, 788. 13
Pecos lines	29, 920. 71
Santa Fe, Prescott and Phoenix	30, 543. 55
Total earnings	1, 678, 252. 39
State and Territorial earnings (local)	638, 996. 86
Interstate earnings	1, 039, 255. 53
Per cent of State and Territorial	38. 07
Per cent of interstate	61. 93

FISCAL YEAR 1906.

Atchison, Topeka and Santa Fe Railway system	18, 013, 988. 56
Pecos lines	312, 431. 28
Santa Fe, Prescott and Phoenix Railway	297, 906. 94
Total earnings	18, 624, 326. 78
State and Territorial earnings (38.07 per cent)	7, 090, 281. 20
Per cent of interstate (61.93 per cent)	11, 534, 045. 57
Probable loss on State and Territorial business $7,090,281.20+25 per cent=	1, 772, 570. 20

I am about through, gentlemen, and I will not weary you much longer.

The CHAIRMAN. Mr. Nicholson, I would like to make this statement to you: We shall not be able to print maps in our record, and I wish therefore, when you make references to them, that you would make your statement so complete that the reader will understand.

Mr. NICHOLSON. Yes, sir; I introduced it for that purpose. I have brought a long statement here, gentlemen, which I will not trouble you with, except to say that it shows that if you should legislate that the Santa Fe Railroad should charge 2 cents a mile maximum on its interstate business, it would have the effect of compelling us to take very much less than 2 cents a mile, because of the fact that in a great deal of our business our road is not the most direct line between two points, as anyone could see by looking at the map [producing same]. That is true not only of the Santa Fe, but of all the other roads. No railroad in the United States is the short line on the majority of its competitive business. It is always the short line on some of it, but in no case is it a short line generally except in their advertisements. [Laughter.]

Mr. ESCH. And on maps. [Laughter.]

Mr. NICHOLSON. Here we run on a basis of 2 cents a mile [indicating on map]. We earn 1.7 per cent, 1.6 cents, 1.5 cents, 1.4 cents, 1.3 cents, and 1.2 cents. I have taken principal points. I have taken Kansas City, Denver, Wichita, Fort Worth, Dallas, Houston, Galveston, El Paso, Phoenix, Los Angeles, San Francisco.

Mr. CUSHMAN. What do these per cents represent?

Mr. NICHOLSON. For instance, take the rate from Chicago to San Francisco: If the rate from Chicago to San Francisco is 2 cents a mile, it means the short mileage. All railroads like ours, that have a longer mileage from Chicago to San Francisco, have got to charge the same amount as the short line or go out of business. It would give us 1.6 per mile from Chicago to San Francisco. That is all that the Santa Fe would earn. It might cause the railroads, in their readjustments of these tariffs among themselves, to go out of certain business that they now compete for. That, I take it, is not in the interest of any of the communities that are served, nor is it the desire of you gentlemen that any such thing should result; and yet it is the most important thing, I think, in what I have to say, and it is this, that 2 cents a mile nominally does not give us 2 cents a mile in practice. There is not a State that we run through where we get anything like the rate per mile that others in that State get, because we have to accept what the short-line mileage yields—the direct rate.

Mr. STEVENS. How many lines are there between Chicago and Kansas City?

Mr. NICHOLSON. There are two, three, four, six, seven.

Mr. STEVENS. Which is the shorter?

Mr. NICHOLSON. The Sante Fe.

Mr. STEVENS. Then the others would get less than 2 cents?

Mr. NICHOLSON. Yes. Take from Chicago to Denver; the Sante Fe would get 1.7 cents per mile; some other railroad would get 2 cents, but that same railroad would lose in its Kansas City business.

Mr. STEVENS. Would you not get so much more, by reason of your being the shorter route between Kansas City and Chicago, as to make up for losses in other points where you were the longer route?

Mr. RYAN. It would average less than 2 cents.

Mr. NICHOLSON. They would all average less than 2 cents. Take all the reports of these railroads and you will find that none of them approximates that rate.

Mr. ADAMSON. I believe you claim an income on the local traffic. You would get the 2 cents on that?

Mr. NICHOLSON. No, sir; take Kansas City to Wichita, and Kansas City to Fort Worth and Dallas and Galveston and——

Mr. ADAMSON. Between all intermediate points you would get 2 cents?

Mr. NICHOLSON. We would if we were the shortest line.

Mr. RYAN. The highest rate charged would be by the shortest line?

Mr. NICHOLSON. Yes, or else go out of business.

The CHAIRMAN. Gentlemen, the hour of adjournment has arrived. This committee has no authority to sit during the sessions of the House, but there are so many gentlemen present waiting to be heard that I will ask the permission of the House to sit during this week without regard to the sessions of the House, and probably we had better have a session this afternoon and go right along. If it is the pleasure of the committee we will take a recess until 2 o'clock. All in favor of that motion, say Aye; opposed, No. The Ayes have it, and a recess will be taken until 2 o'clock this afternoon.

AFTERNOON SESSION.

STATEMENT OF MR. GEORGE T. NICHOLSON—Concluded.

The CHAIRMAN. Mr. Nicholson, you will proceed, please.

Mr. NICHOLSON. Mr. Chairman, I will try not to detain you very much longer. I would like to give a few illustrations of reductions in our earnings which would be caused by this proposed 2 cent per mile interstate rate on account of our mileage not being the short mileage. I have tried to take prominent points on the map, by which you will recognize the locations very readily. From Chicago to San Francisco we would earn but 1.7 cents per mile, the short line getting 2 cents. From Kansas City to San Francisco we would earn 1.6 cents. From Denver to San Francisco we would earn 1.4 cents. From Wichita to San Francisco we would earn 1.6. From Kansas City to Houston and Galveston we would earn 1.6 cents. From Chicago to Kansas City we would earn 2 cents, because we are the rate-making line. From Kansas City to Denver we would earn but 1.5 cents. From Kansas City to El Paso we would earn but 1.6 cents. From Kansas City to Phoenix we would earn 1.8 cents; from Kansas City to Los Angeles 1.7 cents. From Denver to Fort Worth we would earn 1.7 cents. From Denver to Houston we would earn 1.6 cents. That could be enlarged upon indefinitely between this list of cities which I have mentioned—prominent cities in Illinois, and on the Missouri River, and in California and Texas, and so forth.

Mr. WANGER. Are these percentages applicable to the present rate charged?

Mr. NICHOLSON. Oh, no, sir; the present rate gives us better rates.

Mr. WANGER. I mean would the same proportion hold good?

Mr. NICHOLSON. No, sir; the same proportion would not hold good in the case of the Pacific Coast routes, but in the case of the route from

Chicago and Kansas City to Texas. The Pacific Coast rates to-day are not made on anybody's mileage. They are what is called blanket rates, $50 even from the Missouri River.

Take that as an illustration, and the new rate from Kansas City to Omaha, to the Pacific Coast, and points such as San Francisco, and Los Angeles, and San Diego, instead of being $50 would be $32.85. That is less than 2 cents a mile by anybody's mileage from the Missouri River to those points.

But it comes from the way rates are made. You take Fort Worth to Los Angeles, to San Francisco. The direct line is through El Paso. Of course the Southern route—several of our roads go down into Texas, Fort Worth and Dallas and Houston—and at the same rate we bring a man up through Kansas and then take him West. It gives us that many more lines to compete with for the business.

Any legislation that would drive us out of that business would be in restraint of trade, I should take it, so that if we stayed in for that business the highest rate that could be sustained would be $32.85.

In the passenger business we have a very different basis of rates necessarily from freight business. In no case is the passenger rate to or from intermediate points in excess of the through rates, because the man otherwise would buy his through ticket and get off the train. There you are. You can not enforce any rate between intermediate points to compensate you, as is done, and properly done, in the transportation of freight. Therefore, in this proposition you have gotten down to the point where you take your yardstick and make your shortest line, multiply that by 2 cents, and the other railroads have the privilege of meeting that or going out of business if they choose. If it is between large commercial centers they would necessarily choose to remain in business. That, therefore, becomes the maximum rate of their intermediate business, so that it drives these rates down materially, much lower than I think would be contemplated by any law making body; but it would be the inevitable result.

TARIFF B.

Between—	Chicago.	Kansas City.	Denver.	Wichita.	Phoenix.	Los Angeles.
Houston:						
Present rate	....	$21.90	....	....	....	....
Santa Fe earnings per mile	....	$0.024	....	....	....	....
Short line mileage	....	748	....	....	....	....
2 cents per mile rate	....	$14.95	....	....	....	....
Santa Fe mileage	....	947	....	....	....	....
Santa Fe earnings per mile, new rate	....	$0.016	....	....	....	....
Galveston:						
Present rate	....	$23.35	....	....	....	....
Santa Fe earnings per mile	....	$0.025	....	....	....	....
Short line mileage	....	796	....	....	....	....
2 cents per mile rate	....	$15.92	....	....	....	....
Santa Fe mileage	....	951	....	....	....	....
Santa Fe earnings per mile, new rate	....	$0.017	....	....	....	....
Phoenix:						
Present rate	$58.25	$45.75	....	....	....	....
Santa Fe earnings per mile	$0.03	$0.031	....	....	....	....
Short line mileage	1,837	1,379	....	....	....	....
2 cents per mile rate	$36.75	$27.60	....	....	....	....
Santa Fe mileage	1,972	1,514	....	....	....	....
Santa Fe earnings per mile, new rate	$0.019	$0.019	....	....	....	....
Los Angeles:						
Present rate	$62.50	$50.00	$44.20	$50.00	....	....
Santa Fe earnings per mile	$0.028	$0.028	$0.032	$0.031	....	....

TARIFF B—Continued.

Between—	Chicago.	Kansas City.	Denver.	Wichita.	Phoenix.	Los Angeles.
Los Angeles—Continued.						
Short line mileage	a 2,217	1,759	1,351	1,563	....	....
2 cents per mile rate	a $42.00	a $32.85	b $23.40	c $30.60	....	....
Santa Fe mileage	2,265	1,807	1,418	1,632	....	....
Santa Fe earnings per mile, new rate	$0.019	$0.019	$0.017	$0.019	....	....
San Francisco:						
Present rate	$62.50	$50.00	$44.20	$50.00	....	....
Santa Fe earnings per mile	$0.025	$0.024	$0.026	$0.026	....	....
Short line mileage	2,276	2,016	1,376	1,837	....	....
2 cents per mile rate	a $42.00	a $32.85	b $23.40	d $30.60	....	....
Santa Fe mileage	2,576	2,118	1,729	1,943	....	....
Santa Fe earnings per mile, new rate	$0.017	$0.016	$0.014	$0.016	....	....

a $30.60 rate from Fort Worth to San Francisco, applied at Emporia, plus $2.25 from Kansas City, establishes Missouri River-California rate.
b $16.25 El Paso to Los Angeles, applied at Albuquerque, plus local from Pueblo, establishes Colorado common point, California rate.
c Fort Worth to San Francisco, use Bakersfield as dividing point, figured at 2 cents per mile, exceeds the Houston rate; hence, latter governs.
d Made same as Los Angeles, Cal.

CHICAGO, *January 4, 1907.*

There are many features, gentlemen, of this proposed interchangeable one-thousand-mile-twenty-dollar-transferable-unlimited book which would be quite objectionable to the railroads. Very fair objections would be recognized, no doubt, when you care to examine them. But there are other gentlemen who will follow me who are very much better able to give those objections than I am, and I will leave that to them.

Simply permit me to reiterate one point which I consider very strong in my argument: House bill 20153 provides for a transferable ticket which may be sold by any railroad, and all of the railroads must honor it, and it is redeemable—the unused parts of it are redeemable. Now assuming that you should say to me, "Well, I do not put any stress on your argument, because that would go without legislation. The Interstate Commerce Commission would take care of that. You should do that in your State. That is an interstate arrangement." But I make this point: I am living at Chicago, and I may want to go to Joliet, 40 miles away, or to some other point 100 miles away, and I have got as much as a $100 bill. I will take it and buy that universal mileage book and ride to my destination, and then I will go to the ticket office and, having traveled 40 miles, I will get back all but 80 cents.

The poor man, however, can not do that, and the inevitable effect of that will be that State legislatures will at once follow it up and say that "In all fairness to all classes of people we represent you must be equitable in your rates, and you have no right to haul a man who happens to have a $20 bill more cheaply than the man who has got 80 cents." It is an argument which nobody can face, and therefore I simply want to reiterate the statement that the effect at once of this law will be to establish in every State and Territory in the United States a 2-cent rate for trip tickets for long and short distances alike. We could not avoid it, and if we did undertake to avoid it as soon as the legislatures could get hold of it they would fix it so that we could not do otherwise than accept the 2-cent rate for both short and long distances.

I also want to call your attention, gentlemen, to another point,

and that is that any act of Congress establishing a fixed rate per mile, whether you in your wisdom say it shall be one or two or three cents, would be unfair to certain sections of the country. If you make it so that in your judgment it is fair to the roads that have a tremendous passenger traffic and who perhaps could afford it, and who may to-day be not getting more than 2 cents a mile, certainly it would be unfair to the sparsely-settled regions and the railroads serving them, where that rate would not pay for the operating expenses of the trains. On the other hand, if you fixed it high enough to be a satisfactory rate in the sparsely-settled regions it would be too high in the other regions.

Now, gentlemen, we have an Interstate Commerce Commission that has full power, as I understand it, to look into all inequalities of passenger rates as well as of freight rates, and they can take up any features that are complained of as being unfair in any section of the country and deliberate on them, and if that should be suggested as unfair in any way they could still do that and leave the rest of the country as it is. In other words, they would not necessarily be compelled to make a blanket rate because the rate in one locality would be too high.

Mr. RICHARDSON. Suppose the Interstate Commerce Commission should be vested with power to say that the rate should not exceed a certain amount, say 3 cents a mile. How would that do?

Mr. NICHOLSON. Here is a bill, House Bill 22133, which provides for a 2-cent rate with the understanding that—

> The Interstate Commerce Commission shall have power, and is hereby empowered, when any such railway company, upon its application, shall make it clearly to appear that the cost of transportation of passengers over its railway tracks is unusually great, to enter an order in such proceeding suspending the operation of this Act as to such railway company, and in such case it shall be lawful for such railway company to charge a fair and reasonable price for such transportation in excess of two cents per mile.

That, gentlemen, puts the onus of the increased rate upon the Interstate Commerce Commission, and if they in their wisdom should exercise the right given them under this bill it would make them extremely unpopular, which is something you do not care to thrust upon them. If today we are charging 4 cents a mile in Arizona and you pass a law saying that we shall not charge more than 2 cents unless we are permitted, and then the Commission, the Interstate Commerce Commission, permits it they would be condemned for doing it. If the rate is 4 cents let it stay there until the Commission decides that it is too high and should be reduced. If they do reduce it there will be no opprobrium cast upon them. You should establish what is a fair and reasonable charge.

Mr. KENNEDY. To the last bill you quoted from I proposed at a reasonable time to offer an amendment in place of the last clause, limiting the operation of the 2-cent rate to railroads having a gross earning of some particular figure per mile. I state that now so that you might discuss the question of the earnings of the railroads. That probably would exclude your road from its operation.

Mr. NICHOLSON. This is my first offense in addressing committees of legislators, and I hope if I should put my criticisms of this proposed legislation a little bit too strongly it will not be taken in an offensive way.

Mr. PAYSON. You can not hit them too hard. [Laughter.]

Mr. MANN. Mr. Nicholson, part of your road is east of what we call the Missouri River line and part west, I suppose?

Mr. NICHOLSON. Yes, sir.

Mr. MANN. How do you describe that?

Mr. NICHOLSON. We have a term, what we call "Trans-Missouri," meaning west of the Missouri. That is the line supposed to cover the roadway from St. Paul down to Sioux City and Omaha and Kansas City and down to Dallas and Houston, Texas.

Mr. MANN. Have you different traffic associations for each side of the Missouri River?

Mr. NICHOLSON. In our passenger business we have a traffic association that covers from Chicago and St. Louis and the Mississippi River line as far as the Colorado.

Mr. MANN. Is the Missouri River the general base point?

Mr. NICHOLSON. It is in passenger rates.

Mr. MANN. And for freight rates, too, I suppose?

Mr. NICHOLSON. Largely.

Mr. MANN. Is the Missouri River possible or susceptible of being designated in such a way, for instance, that we might provide legislation for the passenger rates east of the Missouri and a different rate west of the Missouri River?

Mr. NICHOLSON. Perhaps you could; but perhaps it would be more accurate to define it by States, naming the States in each list.

Mr. STEVENS. Mr. Nicholson, you probably have read, as we have, in the daily press that the governors of several States through which your lines run have recommended to their legislatures in their several messages a 2-cent rate for their States?

Mr. NICHOLSON. Yes.

Mr. STEVENS. Suppose the legislatures should adopt the suggestion of the governors in the States of Kansas, Missouri, and Iowa. What would happen if they did that? Would you not be obliged to put the 2-cent rate into effect, whether we passed these bills or not?

Mr. NICHOLSON. Well, we are perfectly aware of the fact that there is a strong probability that such a bill will be passed.

Mr. STEVENS. What will be the effect of it, so far as your roads are concerned, on interstate traffic?

Mr. NICHOLSON. If I may say so without having you regard it as a threat, as in Kansas, I will say we would fight that in the courts as a confiscation of our properties.

Mr. MANN. I understand that has been done in Ohio, but I do not think you have done it——

Mr. NICHOLSON. The propositions of Ohio and Kansas are altogether different propositions as to equitable rates. We have neither the population nor the wealth in Kansas that there is in Ohio.

Mr. STEVENS. Would you not be obliged to change your interstate rates if Missouri and Iowa and Kansas or some of the others adopted it?

Mr. NICHOLSON. Yes. In answer to that question I will say that any change in the State rate, or any change affecting an interstate rate, at once fixes the State rate or rate within the State, and it goes down accordingly. In the passenger business there is no such thing as holding up through rates in contradistinction with local rates. It is impracticable, and is not contemplated by the railroads. The

passenger can simply get off at the station. If you charge in Kansas 2 cents per mile, our rates in Kansas and out of Kansas are necessarily reduced by that act, and must at once come down; and in precisely the same line of argument, as I stated here already, the requirement of a national character of 2 cents a mile, to say nothing about the State requirement, will at the same time bring down the State rate.

Mr. STEVENS. Have you figured on the amount of probable reduction in case the States should enact that statute, or in case we enacted something of the kind here? Have you made a computation showing the amount of decrease in the revenues?

Mr. NICHOLSON. Yes, sir; twenty-five per cent; and I stated that I would explain to the Committee how I arrived at that estimate, if the Committee care to hear it.

Mr. STEVENS. Before you come to that explanation, if you were obliged to decrease your passenger revenues 25 per cent, would that produce any difference in the facilities you offer to the public?

Mr. NICHOLSON. Not at all, sir, as a reprisal, but——

Mr. STEVENS. Would you give them the same number of trains, and so on?

Mr. NICHOLSON. Until we found we were unable to do so we would continue the same number of trains. No Western railroad is in the mood to do something and have it said that "It is your lawmakers that give it to you." But as I said, it is quite likely that just as long as the railroad companies begin to have decreased revenues, as they may have—I am not a croaker, but we may not always have the same prosperity that we have today—the auditor is called upon to cut down expenses, and if he does not do it somebody will be put in there who will do it; and the logical result is that the passenger train service will be reduced that is not paying the cost of operation, just as sure as hard times come; it will not be by way of reprisal, but it is simply an equitable proposition.

Mr. ESCH. Have you considered the proposition of the possible increase of the traffic by reason of the reduction of the rate?

Mr. NICHOLSON. Yes; I have considered it.

Mr. ESCH. What would you figure that out to be?

Mr. NICHOLSON. I could not speak of the increase of the passenger business at the present time on other railroads, but I want to say that in my own opinion our passenger business in the West is increasing with as large a ratio as any other part of the United States to-day without a reduction of the rate.

Mr. ESCH. Would it increase in a much larger ratio if the reduction were made in the rate to 2 cents per mile?

Mr. NICHOLSON. Some; not very much.

Mr ESCH. Is not it the experience of some reductions? I have in mind a Michigan road where, as a result of the reduction, an increase has more than made good the loss incident to the reduction.

Mr. NICHOLSON. Oh, in the territory you speak of the country is gridironed with electric lines. They are everywhere throughout the United States, but maps do not show that. The people ride on these trains. We do not have those in the Santa Fe territory, although in a district around Los Angeles there are some, and there may be some in and around Omaha.

Mr. MANN. The electric railroads compete with passenger lines and

will get a good share of business. Why would you not compete with those lines if you put the rate down to what they are in the East?

Mr. NICHOLSON. I took that into consideration when I made my estimate of 25 per cent.

Mr. MANN. That estimate of 25 per cent is not merely based upon a 25 per cent reduction in rates, but on a 25 per cent loss of business?

Mr. NICHOLSON. The loss on the whole thing. I will show you how I get at it. One man's judgment on this is just as good as another's, provided you make some allowance for his experience. In our territory the most thickly populated territory we serve is on a 3 cents per mile basis. That is from the Rocky Mountains to the Missouri and Mississippi Valley. That is on a 3-cent basis to-day. The 2-cent basis brings that down one-third. When you get West of that the next best territory we have is on a 4-cent basis. That includes New Mexico, Arizona, and much of California. We have some of 5 cents, and we have some few little branches that run up to mining camps as high as 4 and 5 and 6 cents. Therefore your first reduction is one-third on your most profitable territory and about 40 per cent on the 4-cent territory, and more than that on the 5-cent territory. It brings it down, as I figure it, to where 38 per cent of our passenger earnings would be taken away, provided you had no increase of business.

Now as an offset to that you can take off something of your 38 per cent for increased business. We are running now from 10 to 15 per cent increase over last year, and last year's was the biggest business we ever did. I hope other roads are doing even better than that. But take off something for that.

Now, then, you come to the class of business that is done on excursion rates and on your mileage rates, and I take the position that on that business we can still get the same rates per mile that we now get. For instance, if there is an excursion for a Grand Army convention we make them a cent-a-mile rate. For the ordinary convention we make a rate of one fare; that is, 3 cents for the round trip, or 1½ cents each way. If we have a 2-cent law we can still charge 1½ cents each way, and it will be an excursion ticket. While I admit that that volume of our passenger earnings that is represented by excursions and mileage business, 1,000, 2,000, and 5,000 mileage book rates, can be maintained at its present figure, that is a reason why it is not a full 38 per cent decrease. I make an allowance for that and for the natural growth of business as a result of the reduced rate, and I come down to the proposition that to reduce our earnings from 38 to 25 per cent is a very conservative estimate. I believe it will be larger than that.

Now, take the element alone of the excursion business. The men and the people in the country and in the small towns come in and see a cheap rate advertised, and if they do not go you do not get your money. A great deal of their travel is occasioned because it is a cheap rate. We transact business when we make them a half rate. Those people get on the train and go. If you charge them 2 cents a mile every day and then offer them 1½ cents as an excursion, which in my opinion we would still do, they might say, "Well, if I get ready I will go, and if I don't get ready, I won't go at all." That item is going to materially decrease our earnings from excursions, unless we further reduce our excursion rates as you reduce our regular ticket rates.

But I eliminate all that from the proposition and take the position

that we could, if we wanted to, still continue to charge the same as we do to-day for excursions. I want to modify that to this extent, however, that it applies to local and short-distance excursions. When you come to Pacific coast business you will find it is altogether different.

I have a table here from which I was reading just now, before you came in [addressing Mr. Mann], in which I showed that the rate from Chicago to San Francisco will be $42. Twice that would be all that you could charge for a round-trip rate, $84; whereas we now charge $110. There would be a heavy discount from the excursion rate, so that there are some excursion rates, at least, that would come down.

Mr. MANN. You mean the $42 is a short-line rate?

Mr. NICHOLSON. Yes. We would have to meet it or go out of business, and that would be in restraint of trade. Any rate that forces any railroad out of business is in restraint of trade. That is my opinion, although I am not a lawyer.

Mr. ESCH. With reference to some of the principles that guide us in determining the merits of this bill, allow me to remark that your argument has been directed almost wholly to the receipts from passenger traffic. Do you think we could legitimately consider, in connection with your passenger traffic, also the returns from freight traffic? Because you say a road does not pay for its passenger traffic, are we deprived of the right of considering your returns from freight?

Mr. NICHOLSON. You mean that the passenger-rate law would carry with it the guaranty that there would be no reduction in freight rates?

Mr. ESCH. No. You do not get my idea. In determining whether this is a proper measure to pass, can we consider also the profits that the railroads get from their freight traffic; also your income from other sources—express, mail, and dividends on stock held in other corporations, and things of that kind?

Mr. NICHOLSON. As to our earnings on mail, we are perfectly powerless to increase or decrease them. They are a matter wholly in the power of Congress, and we have to take what they give us for that. The statistics I give include our mail earnings and passenger trains.

Mr. ESCH. You make no reference to freight returns?

Mr. NICHOLSON. No, sir. In answer to that I should say no, because on all railroads the two propositions are absolutely independent. For instance, we have a passenger department and a freight department. If the passenger department has before it a proposition to reduce or change the rates, it never has any occasion to consult the freight department about that. It stands on its own basis. It is a business of itself, and there is no interlacing of the two kinds of business.

Mr. ESCH. This follows with reference to your suggestion as to restraint of trade, or putting it in the hands of a receiver. If the dividends are large from freight, have you a right to consider that fact in connection with the rate on passenger traffic?

Mr. NICHOLSON. I should say that is a matter for the attorneys. But I understand there are court decisions under which the railroad attorneys hold that there is protection for them as against confiscatory rates.

Mr. ESCH. Yes; that is a Nebraska case.

Mr. NICHOLSON. But I am not competent to discuss that, though I would be very glad to express an opinion. Do I understand your question to mean this, that if the reduction in passenger rates results in an increase in passenger business and thereby helps the passenger problem, should that be considered an item?

Mr. ESCH. No; not exactly. I say, in deciding the merits of this bill, can we take into consideration the returns of the railroad on its freight business?

Mr. RYAN. The gross earnings of the railroad?

Mr. ESCH. Yes.

Mr. NICHOLSON. I should say that would not be a proper thing, because there is a body, the Interstate Commerce Commission, that has full power to consider freight or passenger rates on the merits—on the merits of each particular road that may come before their attention upon complaint; and I should say if a complaint was made to the Interstate Commerce Commission that certain rates from A to B on coal, for example, were entirely too high and ought to be readjusted, that the railroad could not set up as an argument that it had a low passenger rate and therefore should be allowed to charge a high rate on coal. I do not think that would be acceptable or be considered sound sense, so that I say the passenger proposition should be considered by itself.

Mr. ESCH. And you think that we should not go into the consideration of returns from earnings from any other source?

Mr. NICHOLSON. I should say so.

Mr. RICHARDSON. You gave before noon illustrations of two roads that you are running at a loss, and you said that the aggregate passenger receipts and the gross expenses differed by $800, or eight hundred and some odd dollars. Do you not recoup your loss in the passenger trains by freight rates? You do not run that road on a loss, do you?

Mr. NICHOLSON. No; we endeavor to recoup the loss, as every road that has a large number of branches does. It is simply some mileage that is not profitable, but it is operated because it is a part of the entire system and a part of the country which it serves. Take this particular illustration that I brought out this morning. We hope to see the day—and it is rapidly coming in that section of the country—when people will come in to make that a good railroad, a good paying road.

Mr. RICHARDSON. You do not decide or fix the freight charges in order to recover losses incurred on the passenger traffic? They are separate and distinct?

Mr. NICHOLSON. Yes. We do not make our freight charges on the road higher in order to recover from the passenger loss. The whole proposition is made eventually on the theory that the country will develop. We have built the railroad, and will keep on running it until it eventually becomes profitable.

Mr. RUSSELL. Let me ask you a question. What kind of people, in your judgment, would buy the 2-cent mileage tickets or books? What kind of travelers would make those purchases? Would they be mostly commercial men, commercial travelers?

Mr. NICHOLSON. Nobody would be likely to buy mileage books after the regular ticket rate was reduced to the 2-cent basis.

Mr. RUSSELL. These bills provide for the sale of a 2-cent mileage book?

Mr. NICHOLSON. Yes, sir; and I presume that your view is that local ticket rates would stay where they are. But I make the argument that they would not stay there.

Mr. RUSSELL. In that case who would be the purchasers of these mileage books? Would they not be the commercial travelers?

Mr. RICHARDSON. Did you not say awhile ago that it would be a discrimination between the poor and the rich man?

Mr. NICHOLSON. Yes.

Mr. MANN. Everybody who had $20 would buy them. I am sure I would not buy anything else.

Mr. NICHOLSON. The commercial travelers are always the largest purchasers of mileage books.

Mr. RUSSELL. I think you made some statement in the forenoon about what per cent they covered.

Mr. NICHOLSON. It is a very small proportion.

Mr. RUSSELL. What other people besides the commercial travelers would be likely to purchase these?

Mr. NICHOLSON. There is no mileage ticket at present which you buy as a commercial traveler but what you have to use it yourself in order to get the refund. Here is a proposition, however, to sell a ticket as good as bank currency. In fact, you could carry them around instead of paying the exchange on bank checks.

Mr. SHERMAN. Mr. Nicholson, are you not in error in that statement?

Mr. NICHOLSON. I think not.

Mr. RUSSELL. Could not a man travel forty miles or so and then cash in the book?

Mr. NICHOLSON. Yes; he could do that. You would have ticket brokers in every town in the Western country unless you made a provision to prevent it. No one had any idea that this would encourage the growth of scalpers' tickets, but it would encourage that on its very face.

Mr. RUSSELL. What would be the encouragement to a man to buy a mileage ticket unless he could cash it in?

Mr. MANN. The scalper could not pay any more than its face value for it.

Mr. NICHOLSON. Certainly not; but the scalper would have lots of customers who have not got $20 bills.

Mr. MANN. Yes; but the scalper probably would not be able to handle the tickets in that way. You say you have got to put down the price of regular tickets?

Mr. NICHOLSON. As soon as we put down the price all that would be done away with. But to start with, the purchasers of these tickets would be largely commercial travelers and any other wholesale travelers, and as soon as the railroad would be compelled by circumstances, as I predict they would be, to reduce the rates generally to the 2-cent basis, mileage books would be obsolete.

Mr. MANN. Suppose this bill providing for the issuance of mileage books should make them not transferable and redeemable only at the general office of the company making the issue?

Mr. NICHOLSON. That would be a very much better bill.

Mr. MANN. What effect would that other kind have—an interchangeable mileage book?

Mr. NICHOLSON. That would have the effect of reducing our rates

in what I would call the Trans-Missouri territory. We now have no mileage rates out there of less than 2½ cents a mile. We reduced that rate one-half cent a mile.

Mr. MANN. Have you a mileage book elsewhere that is not good East?

Mr. NICHOLSON. It is not transferable. The territory is cut up into districts.

Mr. MANN. How many of those districts are there in the United States? Do you remember?

Mr. NICHOLSON. In the territory which I represent there is the Western Passenger Bureau, which covers up to the Missouri River—we will say Chicago, St. Paul, and Kansas City, and St. Louis, and down there. They would have another in Arkansas and Texas and the Indian Territory. Then we have another that is good in Kansas and Colorado and New Mexico and that region, and then we have still another which is good on the Pacific slope, from the Rocky Mountains to the coast.

Mr. MANN. So that a commercial traveler now, traveling through the West generally, if he wishes to have a mileage ticket must have a number of them?

Mr. NICHOLSON. Yes, sir; and he also takes different routes in different sections of the country for precisely the same reason that we charge the ordinary traveling public higher rates in one section than in others.

Mr. BURKE. How recently have there been reductions generally on your system of passenger rates?

Mr. NICHOLSON. On the 1st day of July, 1906, we made voluntary reductions in our rates in Colorado from 4 to 3 cents a mile. In California, on the line from Needles to San Bernardino, from 5 to 4 cents a mile; from San Francisco to Phœnix, from 6 to 5 cents a mile; on the main line in Arizona from 5 to 4 cents a mile. Those were voluntary reductions. There never was a letter or request or petition from any citizen of the United States to us on the subject, that I know of.

Mr. SHERMAN. Were all of these reductions made after the introduction of this bill that you are now discussing?

Mr. NICHOLSON. Suppose they are. We reduced from 10 to 8 cents, and from 8 to 6 cents, and from 6 to 5 cents before that.

Mr. SHERMAN. I know; but I was speaking of this that you just referred to.

Mr. NICHOLSON. Well, we are speaking of the rates to commercial travelers.

Now, I want to speak of an opinion that may have a little bit of dynamite in it for the railroad man who is engaged in procuring freights, but I see no reason why the commercial travelers in this country should have any lower rate per mile than the most humble citizen. They are not entitled to it.

Mr. SHERMAN. Does this bill call for it?

Mr. NICHOLSON. No, sir; except in the sense that, so far as I know, that is the source of the only organized demand for the reduction in mileage-ticket rates. That comes from the commercial travelers, and when you get next to them you will find that they want not a public rate but a special rate for themselves which is advantageous to themselves only.

Mr. BURKE. Mr. Nicholson, does your company operate any trains known as excess-fare trains?

Mr. NICHOLSON. No, sir; we do not. We have one train of that character—that is, it carries nothing but first-class Pullman sleepers on it, has no chair cars, and has thereby the effect of making a class train, but we do not have any extra fare on it. However, there are very many trains of that character throughout the country.

Mr. STEVENS. Before you conclude, Mr. Nicholson, I would like to ask you this: Is there any connection between the passenger department and the operating department of your road, or in any other that you know anything about, so that the reduction of revenues in one department would affect the expenses which the operating department would incur in the line of wages and things of that kind? Does one department take the other into consideration?

Mr. NICHOLSON. Just about as quick as you stuck a pin in your finger you would feel it in your brain. The minute our earnings go down we try to save all we can.

Mr. STEVENS. Suppose those States which I mentioned to you had established 2-cent rates, and suppose it had the effect you describe upon passenger rates, what would be the effect upon the operating department?

Mr. NICHOLSON. Immediately?

Mr. STEVENS. Yes; immediately or at any other time, from your experience or in your judgment.

Mr. NICHOLSON. I think it would have no effect until the earnings showed some material decrease. It would take some considerable time to determine that.

Mr. STEVENS. What would be the effect then?

Mr. NICHOLSON. The immediate effect then would be a close examination of our passenger-train service. They would take the earnings of the branch road that was showing a deficit and try to bring its operation to a cost basis.

Mr. STEVENS. And cut down expenses?

Mr. NICHOLSON. Yes, sir.

Mr. STEVENS. How?

Mr. NICHOLSON. The only way you can cut down expenses in passenger service is to take off some trains. If you run the trains your expenses are practically a fixture. You can not run a train and still reduce the expenses materially.

Mr. STEVENS. Could you decrease wages?

Mr. NICHOLSON. No, sir.

Mr. STEVENS. That is regulated by another power?

Mr. NICHOLSON. Yes; and not the railroad power, either.

Mr. STEVENS. I wanted to make that a matter of record.

Mr. NICHOLSON. You can not decrease wages or the cost of supplies. If you have a good purchasing agent, he is supposed to get them as cheaply as he can anywhere; and the cost of maintenance of the road has to be taken into consideration.

Mr. STEVENS. Then if you are confronted with a steady cost that will not decrease on the one side and with decreasing revenues on the other, what is the inevitable effect?

Mr. NICHOLSON. The inevitable effect is to reduce the passenger train service, and that will come primarily and with full force upon the communities that already have an inferior service. If you have

a main line of travel between two big cities you have got to run your trains there anyhow, and you will reduce in your agricultural regions on your branch lines and in a sparsely-settled country. They will feel it. I would be very sorry to see it done.

Mr. STEVENS. Is it possible in any way to decrease the cost of equipment by getting cheaper cars or equipment, or cheaper tracks and material, and cheaper station material?

Mr. NICHOLSON. No, sir; any railroad that would undertake to buy cheaper cars nowadays would be pilloried. Cars are getting more expensive all the time. Even freight cars are having steel underframes put on them, and all that sort of thing, for matter of safety. Passenger cars, likewise, are being built stronger and more expensive. Every lot is more expensive than the previous lot, not only because the cost of material has gone up, but also because the cars are of more expensive pattern.

Mr. ESCH. That allows you to carry more freight, though. You have increased the tonnage of your cars vastly by reason of that fact?

Mr. NICHOLSON. Yes, but I do not know how the underframing of the freight cars has done that?

Mr. ESCH. You have 60,000-pound cars now?

Mr. NICHOLSON. Yes, and we have some that are not steel underframed; but I am very sure that no railroad company would retrench in expenses in any item which affected the safety of the traveling public on account of the bill. That would be suicidal and inexcusable.

THE CHAIRMAN. Have you any data to show the average number of passengers to a car in your entire service?

Mr. NICHOLSON. Yes, sir. Oh, per car? I can show it to you simply per train. I haven't got it per car. I will furnish you that information per train. I can not give it to you per car. I thought I had it with me.

The CHAIRMAN. Have you anything to show the average number of passengers in Pullman cars in your service?

Mr. NICHOLSON. No, sir; we have no such statistics.

The CHAIRMAN. I wish you would tell us what you understand by this language: "Shall not be restricted in passage on any passenger train of any railroad engaged in interstate commerce."

Mr. NICHOLSON. My understanding of that is that there shall be no extra-fare trains, as we call them, or trains requiring an extra payment above the price of the railroad ticket.

The CHAIRMAN. Do you think that language would accomplish that prohibition?

Mr. NICHOLSON. I think so, sir.

The CHAIRMAN. Are you prepared to speak with reference to the power of Congress to legislate in certain directions shadowed in this bill?

Mr. NICHOLSON. I should say those are legal questions, and I am a purely traffic man. I certainly should not want to say you did not have the power.

Mr. LOVERING. Mr. Nicholson, you said that any legislation by Congress would be followed by State legislation?

Mr. NICHOLSON. Yes, sir.

Mr. LOVERING. Has that been the case in States where the 2-cent mileage has been accorded heretofore?

Mr. NICHOLSON. Up to this time, sir; so far as I know, there has been no national legislation on the question of passenger fares, establishing fares. It has all been by States.

Mr. LOVERING. But has the adoption of the 2-cent mileage rate in any State been followed by legislation elsewhere?

Mr. NICHOLSON. It has been followed by tremendous agitation elsewhere, and the legislatures of the States that our roads serve, most of them, will meet early this year, and we anticipate that they will all consider these reduced passenger fare bills.

Mr. LOVERING. There has been 2-cent mileage for a great number of years in some of the Eastern roads, has there not?

Mr. NICHOLSON. Only in spots. It is generally understood that the 2-cent rate on the New York Central has been in force for many years, but that is not the fact. It has been only recent.

Mr. LOVERING. It has been by the New York, New Haven & Hartford.

Mr. NICHOLSON. I think the New England roads put in the 2-cent basis two years ago, did they not?

Mr. RICHARDSON. Those State legislatures that you say are going to meet soon and will act, as you apprehend—if they did that your plain remedy would be that your property would be taken from you without due process of law, if you went to the courts, or by confiscation. They could not do that without your having a day in court?

Mr. NICHOLSON. No, sir; that is the position we take.

Mr. RICHARDSON. That is what you would do?

Mr. NICHOLSON. Yes, sir; but I make the point, gentlemen, here, that if you put in the 2 cents per mile nationally, we have to follow right down and put it in as a State proposition. You can not lock a man up in a car and carry him against his will to a certain place. He will get off the train. If you enact any of these three bills, we shall have a 2-cent rate to any point in the United States.

Mr. RICHARDSON. If the rate is made so low that you can not make ends meet, then you would invoke the constitutional authority?

Mr. NICHOLSON. I am not the power on our road to say definitely what our procedure would be, but I suppose that would be the programme.

Mr. MANN. I do not want to shut off Mr. Nicholson, but I want to say that there a great many other gentlemen here who would be glad to be heard.

The CHAIRMAN. If Mr. Nicholson is through, we will hear from Mr. Johnson.

Mr. NICHOLSON. I am through. Thank you, gentlemen.

The CHAIRMAN. Gentlemen, there are two or three propositions to which I would like to call the attention of some of the gentlemen here, gentlemen who I suppose are before the committee. I would like to ask some gentleman to give us his opinion as to the power of Congress to enact this as legislation: "And that they shall be good for transportation and checking of baggage upon the trains of any railway in the United States." And this: "And shall be redeemed upon presentation at any ticket office of any railroad engaged in interstate commerce at their face value." I suppose that language applies to roads, or would be applied to roads that may be very remote, one from the other, and that may have no business connection of any kind, and that may not have any traffic relations. I

would like to know whether Congress has the power to compel one of these remote railroads to accept as a legal tender for the service the mileage ticket issued by some other road, or whether we have the power to compel this remote railway to redeem the obligation of another road.

Mr. Johnson, we will hear you.

STATEMENT OF MR. J. M. JOHNSON, REPRESENTING THE DENVER AND RIO GRANDE, THE ST. LOUIS SOUTHWESTERN, THE TEXAS AND PACIFIC, AND THE INTERNATIONAL AND GREAT NORTHERN RAILROADS.

Mr. Johnson. Mr. Chairman and gentlemen of the committee, the argument I submit is the argument of the Denver and Rio Grande Railroad. I have not gone into the statistics of the matter, because I felt that any statistics that you might want we would be very glad to furnish, and would be very glad to furnish them in any manner in which you might want them. I have only gone into the general propositions of the bill or the general principles of the bill rather, as they appeal to us.

This bill undertakes to impose a uniform rate which is to be applied alike by all railroads, although the circumstances and conditions are dissimilar in that it seeks to establish a uniform maximum passenger rate of 2 cents per mile on all interstate railways for all interstate travel, regardless of the fact that circumstances and conditions surrounding the several carriers are unlike in nature and character.

A rate which would render only a fair and reasonable return to a railway in a densely populated section of the country where the traffic is heavy if applied to the passenger travel of our western roads which traverse sparsely settled and mountain sections where travel is light and cost of construction, maintenance, and operation much greater than that in the eastern section would prove ruinous.

The operation of the Denver and Rio Grande system through a mountainous country (Colorado, Utah, and New Mexico) sparsely settled, the volume of traffic light, its towns and mining camps far apart and difficult of access, and reached over heavy grades and extreme curvatures, involves an unusually heavy rate of expense, the passenger-train service in many sections yielding but a limited revenue, often not equal to the cost of operation.

The Denver and Rio Grande Railroad operates 1,630 miles of standard-gauge and 1,085 miles of narrow-gauge railroad in Colorado, Utah, and New Mexico. It is, strictly speaking, a mountain railroad.

The main line, standard gauge, from Denver, Colo., to Ogden, Utah, is 778 miles. In accomplishing this it crosses three mountain ranges, two over 7,000 feet and one over 10,000 feet above sea level, involving grades of 2, 3, and 4 per cent. The narrow-gauge line, forming a part of a second main line, crosses a range at an altitude approximately 11,000 feet. The country traversed by the remainder of the system is of the same character and makes the operation of a railway equally difficult.

To illustrate the character of these grades:

The altitude of Denver is 5,279 feet; the altitude of Palmer Lake, 52 miles away on the main line, is 7,224 feet, an ascent of nearly 2,000 feet in 52 miles.

The altitude of Pueblo is 4,668 feet; Salida is 7,038 feet; a difference of 2,370 feet in a distance of 90 miles.

Between Salida and Tennessee Pass, the altitude of the latter being 10,240 feet, the distance 66 miles, the railroad ascends 3,202 feet.'

Green River has an altitude of 4,080 feet and Soldiers' Summit 7,454 feet, or 3,374 feet difference in a distance of 96 miles.

Coming east from Salt Lake City we have from Thistle Junction to Soldiers Summit a climb of 2,421 feet in 25 miles.

From Grand Junction to Tennessee Pass the distance is 169 miles and the difference in altitude 5,667 feet.

The altitude of Pueblo is 4,668 feet and Palmer Lake, 68 miles distant, 7,224 feet, showing an elevation of 2,556 feet in the 68 miles.

Salida to Marshall Pass, the elevation of the latter being 10,856 feet, it must overcome 3,818 feet in 26 miles.

It must be apparent to everyone that a rate which would be remunerative to a railroad operating in a comparatively level country where the grades are easy and one engine draws from twelve to fifteen passenger coaches would not yield operating expenses to a mountain railroad such as the Denver and Rio Grande, which with the same power can haul only five, or at the most six, coaches over these mountain ranges where the addition of another coach requires an extra engine.

It is almost of daily occurrence during the tourist season for some one of its eastern connections to deliver to the Denver and Rio Grande road a train of as many as 10 or 11 coaches, which its connection has drawn into Denver with one engine and one crew. It devolves upon the Denver and Rio Grande to furnish two engines and two crews, with the attendant additional expense, to handle the same number of coaches which have been drawn into Denver by one engine and one crew by its connection.

In order to give some idea of the sparsely-settled condition of Colorado and Utah, it is only necessary to make the following comparisons:

The area of Colorado is 103,925 square miles. The population of Colorado is not quite 600,000; less than 500,000 in the territory tributary to the Denver and Rio Grande road; this is about one-seventh the population of New York City, one-fifth that of Chicago, and scarcely one-half that of St. Louis. Many of the large cities of the East have a population much in excess of the total from which the Denver and Rio Grande draws in Colorado.

The population of Utah is less than 300,000; area, 82,000 square miles, almost twice as large as New York State, so in Utah these comparisons apply with even greater force than in Colorado.

The distance between the principal commercial centers of Colorado and those of Utah is much greater via the Denver and Rio Grande than via its principal competitor. For example, the distance from Denver to Ogden via the Denver and Rio Grande is 778 miles; via the Union Pacific, 591 miles, a difference of 187 miles. This is the avenue of much the largest volume of the Denver and Rio Grande's interstate travel. The enactment of this law would affect seriously the revenue of the Denver and Rio Grande Railroad; it would be forced either to accept a much lower rate than that named in the bill in order to meet the rate established by the bill for the short line or retire from participation in the through business. The former would certainly be disastrous, and the latter would be practically impos-

sible, owing to the fact of its having participated in that business more than twenty years, and by reason of its scenic attractions has been able to carry more than 50 per cent of that business.

To give some idea of the reductions that would be imposed upon this company by the enactment of this law, attention is called to the present rate from Denver, Colorado Springs, and Pueblo, Colo., to Salt Lake City and Ogden, Utah, namely, $17.75; this is based on 3 cents per mile, Union Pacific Railroad short line mileage between Denver and Ogden. In order to meet commercial conditions all the Colorado cities named are grouped on the one hand, and the Utah cities are grouped on the other. The application of the rate named in the bill would establish via the short line a through rate of $11.84 between Denver and Ogden, being a reduction of $5.91. The Denver and Rio Grande, with its greater mileage, to meet the new rate would earn only 1½ cents per mile. This new rate would necessarily pull down a large number of the rates at local intermediate stations.

It would be practically impossible to confine the application of the rate named in the bill to interstate travel; of necessity it must extend to local travel, as many intermediate points on the long line are affected by the through rates made to meet short-line competition.

On account of the physical condition of the territory covered by the Denver and Rio Grande Railroad, its local rates are 3, 4, and 5 cents per mile, according to the character of the country traversed.

I might say, in that connection, that part of the territory carried a 6-cent rate until last November, when it was voluntarily reduced to 5 cents.

It has been found by experience that these rates are necessary to make the operation of passenger trains at all remunerative, and still in some instances they do not more than meet the cost of operation; all are based on the physical conditions and the volume of traffic peculiar to the particular locality in which they are applied.

Its 1,000-mile book rate is $30. This is the net rate, no refund of any kind whatever being made.

The sale of unlimited transferable mileage books, unrestricted as to trains, at the rate of 2 cents per mile, presumably for interstate travel, would defeat all effort to maintain a higher rate locally within any State. To illustrate: The main line of the Denver and Rio Grande Railroad, Denver to Ogden, is divided into three divisions, necessitating a change of conductors and crews at each division point. If a passenger desired to make a State trip from Denver to Salida and avail himself of the advantage of the 2 cent interstate rate established by the law it would only be necessary for him to tell the conductor he was going to Green River, Utah, and the conductor would detach mileage only to the end of his division, Salida. The passenger would leave the train at that point, having paid for a State ride only $4.34, being the value of the mileage detached, the rate for which is $6, causing a loss to the railroad of $1.66. This would apply equally well to Grand Junction, the end of the run of the second conductor, where the rate is $14 and the distance 450 miles, only $9 worth of mileage being detached by the conductors, a loss of $5 to the railroad company. If he wished to return from Salida to Denver it would only be necessary for him, in order to avail himself of the use of his interstate mileage, to tell the conductor he was going to some nearby point in Wyoming or Nebraska, again requiring the Denver and Rio Grande Railroad to accept a 2 cent

interstate mileage rate for a strictly State trip. There are a great many cases of this kind; in fact, the whole local business intermediate with two interstate points is jeopardized.

It can readily be seen if the short line rate is arbitrarily established upon a 2 cent basis and the circuitous route participates in that traffic, it must do so at a still lower rate per mile and a great shrinkage of earnings. To retire from the traffic at the same rate it necessarily closes its line to a large traveling public, which is deprived of the choice of routes and many valuable privileges, while the longer route may be the preferable one, because of its attractions, scenic and otherwise. If the circuitous route is selected it must be at a greater cost to the public. From this it can be seen that by the application of the rate named in the bill competition will be largely eliminated.

In the spring and fall especially low rates are made from the heavily-populated districts to points in and west of the Rocky Mountains with the idea of accommodating a large class of people who wish to change location and better conditions. This travel is handled on what is called a "colonist rate," and the Denver and Rio Grande Railroad alone handles from 50,000 to 60,000 of these passengers annually. In this way the railroads have been a great factor in the development of the West.

It is also the practice of western roads, during the vacation season, July to October, to make very low excursion rates to encourage tourist and pleasure travel and to educate the people to travel at a time when it is most auspicious to handle the business in large volume and sufficiently large to justify a reduction in the rate.

Carriers are enabled to do this at these seasons of the year, when all conditions are favorable to the handling of a large traffic, and further, for the reason they can throw around it safeguards to fully protect their interests in every respect.

Such a large volume of traffic can not be handled at other seasons of the year, and while it is handled at a very low rate the carrier expects to recoup through its general business during the entire year; but if a uniform interchangeable rate of 2 cents per mile is established and becomes an all around year rate, being the maximum rate for all classes of travel, the carriers can not afford to make these reductions.

It can be seen that special rates are made by the carriers to serve some useful purpose in response to public demand. They may be made less than 2 cents per mile, and frequently are, but they are measured by the needs of the situation and are not an arbitrary measure.

The ticket imposed by the bill is transferable and unlimited, and unrestricted as to trains, and the carrier is wholly unprotected. It is redeemable if presented by any person at any station in the United States, no identification of the person or the ticket being required. It may have been stolen or obtained in some fraudulent manner, but by the terms of this bill the carrier is absolutely without protection. The injustice of this must be apparent to everyone. Under the present rules of the carriers all reduced-rate interstate tickets are required to be signed by the purchaser and are redeemable only at the office of the general passenger agent of the issuing carrier when in the hands of the original purchaser. This bill provides that these 1,000-mile tickets shall be redeemed at their full face value on presentation

by bearer at any ticket office of any railroad engaged in interstate commerce.

At the smaller stations on railroads the facilities are generally inadequate to properly take care of a supply of valuable tickets. The minimum mileage ticket issued under the proposed law would be valued at $20, a number of which would have to be kept on hand at every station, which would entail a hardship and a risk upon the companies. The railroads would be subjected to still greater risk by being compelled to keep their small stations supplied with sufficient money to redeem the tickets which might be presented. The railroad company would be without protection against fraudulently obtained genuine tickets of other railroads, and it would also be without protection against forged or fraudulently issued tickets purporting to come from other railroads.

Agents, unlike conductors, are not in the habit of handling tickets of other railroads' issue, and therefore would be entirely incompetent to judge of the genuineness of the tickets of other railroads presented for redemption.

A railroad would be compelled to honor the tickets of another railroad without reference to the responsibility of the latter, and would also be compelled to refund the value of a ticket even though issued by an irresponsible railroad.

These tickets would be good in the hands of all persons forever without identification and would operate as a sight draft on all other railroads in the United States. They could be used by railroads in distress to supply themselves with ready cash by flooding the country with their issue of tickets.

The right of the United States Government to compel one carrier to honor for passage another carrier's tickets of any kind or nature is questioned, and it certainly has less right to compel one carrier to redeem the tickets of another carrier. These matters should be left to be settled by each carrier depending upon its knowledge of the responsibility of the carrier issuing the ticket.

This law, if passed, will give great impetus to the ticket-scalping business throughout the country, the evils of which can not be estimated. Any small and irresponsible railroad could issue an unlimited number of such mileage books and distribute them for sale in every city of the United States.

A few years ago a small railroad in the Southwest on the verge of bankruptcy issued a number of interline tickets, supposedly through brokers at a reduced price; no report was made of their sales. By the time the distant railroads had presented their coupons for payment the issuing road had gone into bankruptcy and its obligation was repudiated.

All coupon tickets sold to-day by one carrier over another carrier's line are reported to that carrier and settlement is made on the report of sales made by the issuing carrier, so if the coupon of the connecting line should be lost or destroyed by the collecting carrier it is still reimbursed, as the settlement is made from the report; but the ticket provided for by the bill can not be reported and settlement must be made upon the coupons collected. In this case for its compensation the carrier must depend altogether upon its conductors and clerks to handle and make proper return to the railroad company's auditor of

the mileage coupons collected. If the mileage coupons are lost the carrier has no recourse on the issuing company.

Settlement between the carriers on mileage coupons collected could only be made through a clearing house. It is impossible to estimate the expense to which the carriers would be put to maintain a clearing house for that purpose. Some idea can be conveyed when we state there is in existance at the present time what is called "The Trans-Continental Scrip Bureau," of which ten railroads are members. It operates in the territory west of Colorado and New Mexico. It is a very small affair as compared with what a national bureau of this kind would be; still it employs thirty men in order to clear the tickets of those ten roads.

In closing, to recapitulate:

First. The bill undertakes to impose a uniform rate upon carriers operating under dissimilar conditions.

Second. It will have the effect of concentrating the travel upon short lines as against longer or more circuitous routes possessing attractions warranting their selection by the public.

Third. It deprives the traveling public of the choice of routes except at a greater cost and in that way imposes a hardship upon the class of travel that desires a choice of routes.

Fourth. It will have the effect of eliminating special rates made by the carriers at certain seasons of the year for colonization and vacation.

Fifth. It will have the effect of establishing a much lower rate than two cents per mile for interstate travel on the longer or circuitous routes.

Sixth. It can not be confined to interstate traffic and will defeat all effort to maintain a higher rate in a State where natural conditions necessitate a higher rate.

Seventh. It affords insolvent carriers or carriers in distress the means through which to raise through ticket brokers and other agencies large sums of money for their immediate wants with loss to the carrier transporting the holders of such tickets.

Eighth. It will build up the ticket-brokerage business throughout the country.

Ninth. It imposes upon the carrier a ticket which is a sight draft, without identification, upon all carriers. A draft of this character is certainly contrary to good business methods.

Tenth. It compels one carrier to honor and redeem another carrier's tickets without regard to the responsibility of the issuing carrier.

Eleventh. As the sale of these tickets can not be reported by the issuing carrier to the collecting carrier it forces the carrying railroad to depend wholly upon the collection of the mileage coupons for its compensation.

Twelfth. It will require the maintenance of a large and very expensive bureau to clear the mileage coupons collected.

Gentlemen, that is our view of the bill.

Mr. MANN. You are not in favor of the legislation, I judge.

Mr. JOHNSON. Not exactly.

The CHAIRMAN. Is there any gentleman who desires to question Mr. Johnson? If not, we will ask Mr. Sebastian to address the committee next.

[Papers filed by Mr. J. M. Johnson.]

H. R. 20153.—A bill providing for the issuance of mileage tickets by railroads engaged in interstate traffic.

ARGUMENT OF THE ST. LOUIS SOUTHWESTERN RAILWAY IN OPPOSITION THERETO.

It is impossible to give any exact figures as to what effect the passage of this bill would have on either the gross passenger earnings or the earnings per passenger per mile of the St. Louis Southwestern Railway. The bill would necessitate our making radical reductions in our rates.

Our passenger earnings per mile of road and per passenger per mile for the fiscal years ending June 30, 1902, 1903, 1904, 1905, and 1906, are as follows:

	Per mile of road.	Per passenger per mile.
1902	$1,055.00	$0.0235
1903	1,035.00	.0244
1904	1,131.00	.0244
1905	1,256.00	.0214
1906	1,180.00	.0238

During this period the maximum rate per mile in the States of Missouri and Arkansas has been 3 cents; in the States of Texas and Louisiana the maximum ticket rate per mile has been 3 cents, and the train rate—that is, the cash-fare rate collected on trains—has been 4 cents per mile.

There are few commercial centers located on our rails, and the rates between such commercial centers being based on mileage and not agreed rates, as is the case between some of the larger commercial centers, such as Chicago and Kansas City and between St. Louis and Kansas City, the earnings per mile per passenger, as shown in the above statement, would fairly represent our earnings between our commercial centers, as well as on all other business.

As stated, it is impossible to furnish actual figures as to the effect this bill would have on our earnings, as our intrastate business is so closely interwoven with our interstate that the reduction of the interstate rate to 2 cents per mile would practically reduce all of our intrastate rates to the same basis.

The average earnings per passenger per mile for the past five years, with a general rate basis of 3 cents per mile in effect, has been 0.0235 cents. Assuming that the same ratio would continue under the 2-cent basis, our earnings per passenger per mile would be 0.0155. By eliminating excursion rates this might be raised somewhat, but for various reasons, under a 2-cent rate basis, our earnings could not exceed 0.0175 cents per passenger per mile.

It is manifestly unjust to require lines in the sparsely settled West to accept the same rate per mile as the lines in the closely settled sections of the East, or to require that the rate per mile between two large commercial centers, between which thousands of passengers are handled monthly, and very economically on account of the volume, shall be the same as between two way stations between which few travel. The density of travel should be taken into consideration, and the section in which passenger earnings per mile of road is approximately $1,000 per annum should not be required to make the same rate per mile per passenger as maintains in a section enjoying passenger traffic of five or six times that amount.

It would be extremely difficult, if not impossible, to equalize mileage via the various routes. For instance, between New York and San Francisco there are dozens of routes over which passengers now travel at equal rates, varying greatly in mileage. For example:

	Miles.
Via Chicago, Omaha, and Ogden	3,284
Via St. Louis, Kansas City, and Ogden	3,403
Via New Orleans and El Paso	3,827
Via Chicago, St. Paul, and Portland	4,013

Under present conditions, the rates via all these routes being equal, each of them enjoy a share of the business, the proportion being largely due to train service, time, scenic attractions and other considerations, the mileage being no consideration.

As noted above, there is a difference of over 700 miles in these various distances, which unless some arrangement could be made to equalize—which is apparently impossible—

would give the short line an advantage of approximately $14, enabling it to secure all of the business at the expense of the other lines, which perhaps offer the passenger equal or superior service.

An unlimited ticket, good for endless time, is extremely undesirable for many reasons, among which are: Change of ownership of the issuing road, abandonment of short railroads, difficulty of closing out the mileage account.

All States, by their statutes of limitations, recognize the desirability of limiting the life of all transactions. The District of Columbia does the same, and it seems that Congress is firmer in this belief than the legislatures of the various States, as the time limits placed on the life of judgments, notes, and open accounts in the District of Columbia is shorter than the limits in any of the States, with one or two exceptions.

The tickets being sold without limit would be a great aid to counterfeiters, as by counterfeiting the mileage of roads that had changed hands, or been abandoned, it would enable them to work for a considerable period without discovery.

The bill provides that the tickets shall be redeemed upon presentation at any ticket office of any railroad at their face value. This provision would force the railroads to do a banking business, without any of the restrictions or safeguards afforded banks. The Government might, with equal justice, require any national bank in the United States to cash a check drawn on any other national bank.

It would result in these tickets being dealt in to an enormous extent, and would require all railroads to keep in the hands of their agents a large sum of money for their redemption. It would make a ticket office a "fence" for stolen tickets. We would have no protection in the event of our making refunds on counterfeit tickets.

Under the provisions of this bill, these tickets would have to be accepted on all trains, including the excess fare train composed entirely of Pullmans, which would result in the abandonment of many desirable trains throughout the country. The bill apparently would require us to stop any train at any way station or road crossing to which an interstate passenger might desire to go. This would put an end to all fast trains.

The mileage ticket would be very susceptible to counterfeiting, and sharpers and counterfeiters could flood the country with mileage before being discovered, there being no protection whatever afforded in this respect.

To handle the accounts and settlements in connection with mileage of this character would necessitate initiating a clearing house, employing an army of clerks, which would be a very expensive proposition.

We would be obliged to honor or redeem all tickets presented, regardless of the financial standing of the road by whom issued. A small, irresponsible road could flood the market with tickets of their issue, and obtain hundreds of thousands of dollars in cash, account of which they might not settle with other lines for months; or, in some cases, the outstanding mileage of one of these small roads might amount to more than the value of the road, and in the event of such line going into bankruptcy, the lines honoring or redeeming its mileage would be subjected to great loss.

SAINT LOUIS SOUTHWESTERN RAILWAY COMPANY,
By F. H. BRITTON,
Vice-President and General Manager.

ARGUMENT OF THE TEXAS AND PACIFIC RAILWAY COMPANY IN OPPOSITION THERETO.

It occurs to me that a general law of the character and kind contemplated by this bill, to be operative alike on all roads, would at this time be very unjust and inequitable, and work a hardship upon roads situated as are Texas roads, in a country where the main railroad thoroughfares were constructed when the country was sparsely settled and the cost of construction very heavy, and the roads operated for many years at a great loss, all of which has caused such lines to be burdened with unusually heavy debt. To express it briefly, the same rule that would apply to the older States, where passenger traffic is heavy, could not, with justice, be applied to the Texas lines or other lines alike situated.

While the rate for adult passengers in the States through which the Texas and Pacific runs is 3 cents per mile, our average earnings for adult passengers is about 2½ cents per mile, including excursions and all reduced-rate tickets.

The difference in passenger earnings to the Texas and Pacific Railway under the proposed bill would be difficult to estimate. I think we are safe in saying it would entail upon us a loss of at least 10 per cent of our local passenger earnings. On our through traffic we do not earn much in excess of 2 cents, but our local rate is 3 cents. So that would be very seriously affected.

The total local passenger earnings for the year 1905 were only $1,881,982.37. The local earnings for the past five years have been 2.53 cents per mile.

This company has none of the advantages that are to be found in the older States by way of having commercial centers, where the frequent travel between the cities has justified the roads in putting in a lower rate than the regular tariff. In fact, there are only two cities in Texas, on this line, where there are any reduced rates offered, and these are Dallas and Fort Worth. Here a rate of 1 cent per mile, in mileage books, is offered to the public, but this is done in order to meet competition of an interurban line, the distance between the two cities being only 32 miles. This is practically suburban business.

It appears to me that the rule is one inapplicable and inequitable for the reason that it is to apply to all lines doing an interstate business, and all lines affected are not on a parity, as many of them are situated in and run through thickly-settled communities, where the expense of operating is less and the revenues are more; but situated as is this line, in a sparsely-settled country, and being burdened with a heavy debt, it is compelled to earn more money in order to meet the interest on that debt. This, too, at a time when the country through which it runs is in its infancy in the matter of development, and better facilities are from year to year being demanded, and the money for furnishing such facilities must be made wholly out of the earnings. As an example: The early Texas roads were built at a time when there was but little freight and fewer passengers to be carried. They were pioneers in the country, and were constructed when there was no expectation of early profit, but development alone could bring returns to the investor. They have been maintained at heavy expense for many years, and have sustained correspondingly heavy losses. These facts being known to investors, it necessarily required them to dispose of securities at less than their face value and has encumbered these roads with a large indebtedness upon which investors are now hoping, after many years, to obtain at least a small interest. For a quarter of a century there was heavy loss in operation of the Texas and Pacific Railway and maintaining the same. The time has now arrived when the population is increasing, and the public are demanding better facilities, so that in the interest of the property, as well as to meet the public demands, betterments must be made, new and better equipment must be had, and all of these requirements must be had out of the earnings of the road. Up to this time the Texas and Pacific Railway has never been able to pay any dividend upon its stock.

There is another objection to this bill when it is undertaken to apply it to Texas roads. The country is being rapidly settled up and business is increasing, better equipment and better roadbed is demanded and required. The money for this, as hereinbefore stated, must come from the earnings, as under the laws of Texas this company is without right, power, or authority to increase its bonded debt or its capital stock for the purpose of making betterments or improvements to its property, so in order to provide necessary funds for improving its property, as required by surrounding conditions and the advancement and progress of the State, and in the interest of the property and the people, it is necessary that its earnings should not be reduced, and at this time we could not do justice to the property or the public if the rate was reduced.

It should therefore be obvious to a fair-minded legislative body that such a reduction of passenger revenue would be an injury to the interests rather than a benefit to those whom they seek to aid. We in Texas are not in position as yet to be classed with lines of roads in the older States of much denser population, so for these reasons it must be very obvious to all thinking men that an act of the kind contemplated would be inequitable and unjust to lines situated like ours.

Texas and Pacific Railway Company,
By L. S. Thorne,
Vice-President and General Manager.

STATEMENT OF MR. JOHN SEBASTIAN, TRAFFIC MANAGER OF THE ROCK ISLAND RAILROAD.

Mr. Sebastian. Congressman Mann asked a question this morning in regard to the round-trip rate from Chicago, $110 from Chicago. I only want to call attention to the fact that a business like that is not a profitable business. It is true that the rate gets down pretty nearly the 2-cent basis, but the only reason I can give is that one road does it and the others have to. But there is a good deal of our business on which we do not, of course, begin to get the 3-cent rate. We make rates into Texas from our section of the country, from Chicago, for instance, at a round trip very much lower than the one-way rate. We

do it for development purposes. When it comes to development work we do not consider the passenger rates, and it is for the future development of our property that we give these low rates, to build up that section of the country.

The only other point I want to bring up, Mr. Chairman, is that I lay a good deal of stress on the fact that this question, it seems to me, is one of a great deal of importance. It is one which is quite complicated, in a way, and it seems to me a fit subject for thorough consideration on the part of the Interstate Commerce Commission, the tribunal which you have established for the purpose of considering such questions. I believe that that is all that I have to say.

Mr. MANN. What would be the effect in the State of Illinois, say, on the Rock Island system, of the reduction of the rate to 2 cents a mile?

Mr. SEBASTIAN. The effect in our western country, it seems to me, would be very disastrous. If we put in an interstate rate as between Western States, between Illinois and the State of Iowa because it will spread in all the Western States out there. It is a good deal different from making interstate rates on long-haul business, like a rate from New York to San Francisco. Much of the business we get now is on the 2-cent basis. We do not get 2 cents on an Omaha ticket, for instance, to Chicago, and if you work that so that it will get in this sparsely-settled country, from Kansas into Nebraska, or from Illinois into Iowa, the result is going to be disastrous, and as Mr. Nicholson says, I can not figure how we could keep out local legislation on the 2-cent basis. That is sure to follow.

Mr. MANN. Are you not liable to have local legislation in Illinois and Iowa both fixing those 2-cent fares?

Mr. SEBASTIAN. I do not know. The question is up there in these Western States. I do not know what the result is going to be. I can not tell. I do know that it will be very disastrous to us.

Mr. MANN. Disastrous in those States, do you mean, or disastrous over the road, if the 2-cent fare should extend over the entire road?

Mr. SEBASTIAN. It would be very disastrous to our company, I think. I want to lay particular stress, if you will excuse me, on this branch-line service. I know of one line where we do not get 2 cents a mile. We go into Exline, Kans., where there are 4 roads. We do not have to do what we do there, but we do it because we want to help those communities, and we keep up the service to as high a grade as possible in every one of our towns.

Mr. STEVENS. Suppose some of those States should enact a 2-cent law, and some of the other States through which you run would not enact a 2-cent law, would you give any different service according to the two classes of rates?

Mr. SEBASTIAN. I do not think we would unless we were forced to do it.

Mr. STEVENS. Then the principal result would be that if one of these States passes a 2-cent rate bill, the others have got to to protect their own people, have they not?

Mr. SEBASTIAN. I suppose it is a natural supposition that such a thing is not likely to follow. I do not know what they will do.

Mr. STEVENS. If that situation exists by which one has to do it if the others do, would this legislation impose an additional burden on you?

Mr. SEBASTIAN. You mean if they make a 2-cent rate?

Mr. STEVENS. If the States of Illinois and Iowa and Missouri, through which your railroads run, pass 2-cent bills and the other States none and the other States then receive a discrimination against those if they do not protect themselves by passing similar legislation, they will pass similar legislation; and if those States through which your lines run pass such legislation, would this legislation impose any additional burden? It would not make any difference to you, would it?

Mr. SEBASTIAN. Possibly not, if we had a 2-cent rate in every State which we traverse.

Mr. MANN. Take the case of a State which does not affect your rate, Ohio, that passed a 2-cent rate. The papers stated that they were going to contest it, but after it was passed they acquiesced in it. There may be some reason why Ohio should have a lower rate than Pennsylvania or Indiana or Illinois; but if the railroads are carrying passengers at a loss in Ohio at 2 cents, but make it up on the passengers carried in Indiana or Illinois or Pennsylvania, it would look as though that was hardly fair to the people outside of Ohio.

The same thing would be true in your portion of the country if Illinois put the 2-cent rate into effect, for instance.

Mr. SEBASTIAN. Well, of course, our arguments all get down to the basis of the country that can not stand the 2-cent basis.

Mr. ESCH. In that connection, do you want to express any views on the question asked Mr. Nicholson as to whether we in considering the merits of this bill would have a right to consider freight earnings?

Mr. SEBASTIAN. I quite agree with Mr. Nicholson that they are so widely different that it would be pretty hard to couple those things together, although I do not know anything about freight business and therefore do not like to express an opinion.

Mr. ESCH. Very well.

Mr. SEBASTIAN. I do not know anything at all about freight business.

Mr. RUSSELL. Suppose it should be the view of this committee that a 2-cent rate bill, a flat rate, would be unjust all over, and they should wish to limit its operation to certain roads, do you know any good way that that could be done in general terms?

Mr. SEBASTIAN. I hardly know how you would work that out.

Mr. RUSSELL. Would there be anything improper in doing it by describing certain roads that have a gross earning capacity above a certain figure per mile?

Mr. SEBASTIAN. I should say it would be rather difficult to figure out.

Mr. MANN. You are familiar with the law of Illinois on that subject, I presume—I do not know whether you ever had your attention attracted to it—where railroads are divided into different classes in accordance with their earnings. For instance, take your rate in Illinois.

Mr. SEBASTIAN. Do you mean for taxing purposes?

Mr. MANN. No; I mean for the purpose of fixing the rate of fare. Your rate in Illinois under the railroad and warehouse commission is 3 cents a mile—that is, it is a permissible rate. Some railroads have a rate of 4 cents a mile. That is a law permitting a classification of railroads.

Mr. SEBASTIAN. Yes.

Mr. MANN. Do you know how far you are affected by that?

Mr. SEBASTIAN. We are not affected by it at all.

Mr. MANN. Of course, you simply have the one fare, the one rate, 3 cents?

Mr. SEBASTIAN. Three cents.

Mr. MANN. None of your branch roads charge 4 cents?

Mr. SEBASTIAN. No, sir; we do not charge 4 cents anywhere in Illinois.

Mr. RYAN. As a matter of fact, is it not the freight and not the passenger business on every railroad that is the revenue-producing feature?

Mr. SEBASTIAN. It is so stated. The freight, of course, is the principal factor for getting a revenue. I do not think the passenger business is considered profitable in most sections of our country.

The CHAIRMAN. From the view-point of the passenger department of the railroad, which would be the preferable legislation, that proposed by this bill or a uniform 2-cent rate for all interstate passenger traffic?

Mr. SEBASTIAN. I would prefer not to answer that question, Mr. Chairman. It is a matter that I would have to give some thought to.

The CHAIRMAN. The latter would do away with very many of the objections urged by the gentleman who preceded you. Four or five objections that he urged would be removed by the latter form of legislation?

Mr. SEBASTIAN. Yes, sir.

The CHAIRMAN. All those questions involving fraudulent tickets would be done away with?

Mr. SEBASTIAN. Yes, sir.

The CHAIRMAN. All those questions involving the fraud of the bankrupt railway would be done away with?

Mr. SEBASTIAN. I suppose either bill would have a good many objectionable features to the railroads out in our country.

The CHAIRMAN. You do not think, as a passenger agent—and we hear your name very often very highly spoken of in that connection—that you would have any views upon the subject?

Mr. SEBASTIAN. No, sir.

The CHAIRMAN. As to the relative merits of the two classes of legislation?

Mr. SEBASTIAN. No, sir; I do not think I would like to express any opinion on this.

Mr. SHERMAN. Can you think of any objection to the flat 2 cents a mile rate for interstate business other than the rate itself?

Mr. SEBASTIAN. Well, any flat rate of 2 cents a mile, I think I have stated, would be objectionable from the standpoint of being unprofitable.

Mr. SHERMAN. Yes; that is, the rate itself?

Mr. SEBASTIAN. Yes.

Mr. SHERMAN. Can you thing of any other objection?

Mr. SEBASTIAN. We do not get 2 cents a mile. That is chief objection.

The CHAIRMAN. What would you say to this bill with a modification fixing the price of those mileage tickets, we will say, at $30, $25,

$20, and then giving to the Interstate Commerce Commission the power to establish zones in which some one of those rates might be applicable?

Mr. SEBASTIAN. On the broad principle, first, of the universal mileage ticket I think that would be a bad thing. We already have zones out in our country in handling mileage tickets, as stated by Mr. Nicholson. It is divided up into some three or four different groups. We have east of the Missouri River the 2-cent rate net on mileage. West of the Missouri River we have 2½ cents. I think anything less than the rates which we now have in effect would not be quite right to the railroads.

The CHAIRMAN. Has anybody else any questions to ask? Does any gentleman desire to ask any questions?

Mr. STEVENS. You have had a long experience in passenger traffic. In your experience have your rates ever been fixed on the amount of capitalization or the issue of bonds for your road?

Mr. SEBASTIAN. Not to my knowledge.

Mr. STEVENS. Have you taken into consideration those factors?

Mr. SEBASTIAN. It never has been taken into consideration, so far as my knowledge goes; but I would not know anything about it.

Mr. STEVENS. Have you taken that into consideration in fixing rates on traffic?

Mr. SEBASTIAN. No, sir.

The CHAIRMAN. Have you any method—any uniform method—by which passenger rates are established by your company?

Mr. SEBASTIAN. Yes, sir; we have in local territory. We will make a 2-cent basis, for instance, in Illinois and Kansas and various States. On interstate rates the rates are made up on short-line mileages, as a rule, and the long lines have to meet those rates, which gives them in most cases, say, 2½ cents or 2 cents—as in the case of the rate from Chicago to San Francisco. The rate from Chicago to San Francisco is made via the short line to Omaha, and thence by the Union Pacific and Southern Pacific direct line to San Francisco. This route from Chicago to San Francisco, the Atchison, Topeka and Santa Fé, the Rock Island with its line through El Paso, the Southern Pacific rate applying over the Illinois Central to New Orleans and thence to Los Angeles and up to San Francisco, are all equal with the short line via Omaha and are at a very much less rate per mile than by the direct line through Omaha. That is the way our rates are constructed.

Mr. MANN. How is the rate from Chicago to San Francisco fixed?

Mr. SEBASTIAN. At 2½ cents.

Mr. MANN. Is that fixed upon the basis of 3 cents a mile for the short route?

Mr. SEBASTIAN. No, sir; not on 3 cents a mile; I think it is 2½ cents.

Mr. BOYD. 2½ cents is the uniform mileage?

Mr. SEBASTIAN. There is a difference of between 40 and 50 miles between the long run and the short run.

The CHAIRMAN. There are some routes between Chicago and Kansas City less than 500 miles?

Mr. SEBASTIAN. Yes; the Santa Fé route is 458 miles.

The CHAIRMAN. What is the longest route that participates in that?

Mr. SEBASTIAN. I should think about 540 miles.

The CHAIRMAN. And so the passenger agents agree among themselves upon the average of 500 miles, do they?

Mr. SEBASTIAN. Yes, on short lines.

The CHAIRMAN. Yes; 50 miles in excess of the short line.

Mr. SEBASTIAN. Yes.

The CHAIRMAN. And 40 miles less than the long lines?

Mr. SEBASTIAN. Yes, sir. Those rates, however, were established before the construction of the short line.

Mr. MANN. How do they get a basis of 2½ cents?

Mr. BOYD. It was made before the Santa Fe was built, and also before these long routes were established, and the average was about 500 miles at the time the rate was established.

The CHAIRMAN. That is for all the routes?

Mr. BOYD. Yes, and substantially at that time the mileage was about 2½ cents, and they fixed it on the basis of the mileage rate.

Mr. MANN. The local rate is more than 2½ cents; it is 3 cents in both States.

Mr. SEBASTIAN. My recollection is that these rates were made between Chicago and Omaha. These routes were constructed to Omaha before they were constructed to Kansas City, and Kansas City carries a common rate with Omaha. I think that is the way that came about.

The CHAIRMAN. It was an arrangement to prevent rate wars?

Mr. SEBASTIAN. Not exactly to prevent rate wars, but the Omaha gateway carried the same as the Kansas City gateway, and the other rates made through either gateway are just the same.

Mr. MANN. The Omaha rate is based partly, I suppose, upon rates to the far West?

Mr. SEBASTIAN. Yes, sir.

The CHAIRMAN. Does any other gentleman desire to proceed now?

Mr. PAYSON. I am ready to be heard, Mr. Chairman.

STATEMENT OF HON. L. E. PAYSON.

Mr. PAYSON. Mr. Chairman, having been a fairly close observer of what has been transpiring in the way of legislation in Congress generally for the last fifteen years, I am justified in saying that within the walls of this room there has never been a question discussed of more importance than this, more far reaching in its consequences, more disastrous if it should happen to be sustained, and should be decided wrongly My only fear is that I may not be able to do the subject that I have in hand the justice that its importance requires. At the threshold, I do not propose to deal with questions of figures. My purpose is to deal with the legal question, the power of Congress to enact the law requiring mileage tickets at reduced rates. When Mr. Nicholson, standing at the end of the table where I stand now, made the observation that he was only a layman; that he wanted to make a certain remark that struck him with a good deal of force, I was reminded of what was said in the early days of my experience as a lawyer in Illinois, where a circuit judge said that the common law was only really common sense expressed; that was about all there was to it. And when Mr. Nicholson said, while not being a lawyer, he felt like saying this; that the commercial traveler or the man who had $20 had no more right to purchase one of these tickets

at the reduced rate than the poor man, he simply uttered what is the law of the land today.

More formally expressed, two of the bills before you today—I refer now to the provisions of the two bills relating to mileage books, H. R. 20153 and H. R. 21572—are absolutely unconstitutional. The Congress has no power to pass them. The courts would never enforce them. That has been expressly decided by the highest court in the United States in one case to which I shall presently refer, and affirmed by the unanimous opinion of that same court in another case. So at the outset I do not address myself to the different provisions of these bills; but to get the matters in a consecutive way before the committee, I address myself to the law of the case first.

Mr. Sherman's bill, H. R. 20153, requires all roads engaged in interstate commerce to issue at all stations mileage books not less than 1,000 miles nor more than 5,000 miles, at the rate named, 2 cents per mile, good on all trains upon any railroad in the United States. I do not discuss those questions now. They come in as incidental. But I shall be very glad to address myself to those propositions later, as well as to the provisions in the bill, which involve the right of Congress to make and enforce contractual relations unwillingly between the railroads of this country by compelling acceptance and redemption of the tickets of roads other than their own. I will say simply in passing, and produce the authorities later, that that has been expressly decided adversely to that proposition by two courts in the United States, the main case being in Massachusetts (160th Massachusetts, p. 62), which I will produce before I conclude what I have to say.

Now, first, as to the power of Congress. I refer, first, to what is known among railroad men as the "Lake Shore case," the case of the Lake Shore and Michigan Southern Railway Company *v.* Henry C. Smith, reported in 173 U. S., at page 863. The syllabi of the case express very clearly the propositions decided, but not the arguments upon which they are based. The different syllabi are these:

1. A State may provide by legislation for maximum rates of charges for railroad companies, provided they are such as will admit of the carrier earning a compensation just to it and to the public, and whether they are or not is a judicial question.

2. The power to fix maximum rates and charges for railroad transportation does not include the right to compel a discrimination in rates in favor of those who buy thousand-mile tickets.

3. An opportunity to purchase a thousand-mile ticket for less than the standard rate is not a "convenience" within the rule that the legislature may make regulations of the business of carriers to provide for the safety, health, and convenience of the public.

4. The power of the State legislature to enact general laws regarding a company and its affairs does not include the power to compel it to make an exception in favor of a particular class, and to carry members of that class at a less sum than those who are not such members.

5. The voluntary sale of 1,000-mile tickets good for a year from the time of their sale does not furnish a criterion for the measurement of legislative power to require the sale of 1,000-mile tickets, or a standard by which to measure the reasonableness of legislative action in that matter.

6. The Michigan statute requiring 1,000-mile tickets to be sold by railroad companies for less than the ordinary rates of fare for use by the purchaser and his wife and children, if named on the ticket, and making them valid for two years after date of purchase, is a violation of the constitutional rights of the railroad companies to due process of law and the equal protection of the laws.

That case, Mr. Chairman, was this. The Lake Shore road was chartered by the State of Michigan. It had in its charter a provision allowing it to fix maximum rates at not exceeding 3 cents a mile.

The original company, chartered by the State, was succeeded by the plaintiff in error in this case. The legislature later made a provision requiring the issue and sale of mileage tickets good for 1,000 miles. That these mileage tickets should be sold at the rate of 2 cents a mile, good for two years, unused portion redeemable.

Two contentions were made. First, that that provision in the original charter was of that contract nature that the State, acting through its legislature, could not interfere with the naming as the maximum rate, 3 cents a mile.

That question was disposed of adversely to the railroad company, and the only remaining question to be decided was whether or not legislation requiring this privileged sale of 1,000-mile tickets at this reduced rate was valid, the supreme court of the State having decided that the legislature had an undoubted power to fix maximum reasonable rates. Now, the reasoning in the Lake Shore case and its decision applies here, and in my judgment settles absolutely the lack of power in Congress to pass these two bills. Of course, the decision of the Supreme Court should govern the action of this committee.

After disposing of the question, as I have said, as to whether or not the 3-cent provision in the charter of the company amounted to a contract between the two which could not be interfered with by the legislature, the court said:

The question is presented in this case whether the legislature of a State, having power to fix maximum rates and charges for the transportation of persons and property by railroad companies, with the limitations above stated, and having power to alter, amend, or repeal their charters, within certain limitations has also the right, after having fixed a maximum rate for the transportation of passengers, to still further regulate their affairs and to discriminate and make an exception in favor of certain persons and give to them a right of transportation for a less sum than the general rate provided by law.

It is said that the power to create this exception is included in the greater power to fix rates generally; that having the right to establish maximum rates, it therefore has power to lower these rates in certain cases, maintaining them or permitting them to be maintained at a higher rate in all other cases. It is asserted also that this is only a proper and reasonable regulation.

It does not seem to us that this claim is well founded. We can not regard this exceptional legislation as the exercise of a lesser right which is included in the greater one to fix by statute maximum rates for railroad companies.

May I interrupt myself long enough to say that in every attempt by any legislative authority to regulate railroad rates in this country the power to regulate is always restricted to "reasonable maximum rates," and that must be kept in view all the way through this discussion (reading):

The latter is a power to make a general rule applicable in all cases and without discrimination in favor of or against any individual. It is the power to declare a general law upon the subject of rates beyond which the company can not go, but within which it is at liberty to conduct its work in such a manner as may seem to it best suited for its prosperity and success.

In order that this opinion as I read it further may be thoroughly appreciated by members of the committee, if they are not familiar with it, I may say that the court makes this clear distinction, that there are very many things that the railroad company may do of its own option, for its own purposes, for its own convenience and its own good, which the legislative authority would be absolutely powerless to compel it to do. That is to say, it may make excursion rates, as the Baltimore and Ohio does to a little summer place at Bay Ridge, and fix the rate at a half a cent per mile. It is none of the business of

Congress whether it does it or not. It may do it, but it could not be compelled to do it. So as to "party rates" to ten or more on one ticket, etc., (reading:)

This is a very different power from that exercised in the passage of this statute. The act is not a general law upon the subject of rates, establishing maximum rates which the company can in no case violate. The legislature having established such maximum as a general law, now assumes to interfere with the management of the company while conducting its affairs pursuant to and obeying the statute regulating rates and charges, and notwithstanding such rates it assumes to provide for a discrimination, an exception in favor of those who may desire and are able to purchase tickets at what might be called wholesale rates—a discrimination which operates in favor of the wholesale buyer, leaving the others subject to the general rule. And it assumes to regulate the time in which the tickets purchased shall be valid and to lengthen it to double the period of the railroad company has ever before provided. It thus invades the general right of a company to conduct and manage its own affairs, and compels it to give the use of its property for less than the general rate to those who come within the provisions of the statute, and to that extent it would seem that the statute takes the property of the company without due process of law. We speak of the general right of the company to conduct and manage its own affairs; but at the same time it is to be understood that the company is subject to the unquestioned jurisdiction of the legislature in the exercise of its power to provide for the safety, the health, and the convenience of the public, and to prevent improper exactions or extortionate charges from being made by the company.

Skipping a little that has no application to the present condition, I will read further:

The right to claim from the company transportation at reduced rates by purchasing a certain amount of tickets is classed as a convenience. As so defined, it would be more convenient if the right could be claimed without any compensation whatever. But such a right is not a convenience at all within the meaning of the term as used in relation to the subject of furnishing conveniences to the public. And also the convenience which the legislature is to protect is not the convenience of a small portion only of the persons who may travel on the road, while refusing such alleged convenience to all others, nor is the right to obtain tickets for less than the general and otherwise lawful rate to be properly described as a convenience. If that were true, the granting of the right to some portion of the public to ride free on all trains and at all times might be so described. What is covered by the word "convenience" it might be difficult to define for all cases, but we think it does not cover this case. An opportunity to purchase a thousand-mile ticket for less than the standard rate we think is improperly described as a convenience.

The power of the legislature to enact general laws regarding a company and its affairs does not include the power to compel it to make an exception in favor of some particular class in the community and to carry the members of that class at a less sum than it has the right to charge for those who are not fortunate enough to be members thereof.

There is this whole case in the last six lines of this opinion, because the legal rates under the Interstate Commerce Act for passenger traffic as well as the legal rates for the transportation of freight, are the schedules which are filed with the Interstate Commerce Commission, and which are approved by them. These stand as the legal charges until otherwise ordered by the Commission itself in due course of procedure. Every railroad company in the country with its main and branch lines where they are operated under separate organizations, has filed its schedules with the Interstate Commerce Commission. The passenger rates are in no case less than three cents, and run from that up as high as eight cents per mile. Those rates have all been approved, and are legal rates today, until they shall be changed in some way. We have the right to charge those rates, and they are presumed to be legal maximum reasonable rates for the service which we render in passenger traffic.

The Supreme Court proceeds, emphasizing what it has said before:

The power of the legislature to enact general laws regarding a company and its affairs does not include the power to compel it to make an exception in favor of some particular class in the community and to carry the members of that class at a less sum than it has the right to charge for those who are not fortunate enough to be members thereof. This is not reasonable regulation. We do not deny the right of the legislature to make all proper rules and regulations for the general conduct of the affairs of the company, relating to the running of trains, the keeping of ticket offices open and providing for the proper accomodation of the public.

This act is not like one establishing certain hours in the day during which trains shall be run for a less charge than during the other hours. In such case it is the establishing of maximum rates of fare for the whole public during those hours, and it is not a discrimination in favor of certain persons by which they can obtain lower rates by purchasing a certain number of tickets by reason of which the company is compelled to carry them at the reduced rate, and thus, in substance, to part with its property at a less sum than it would be otherwise entitled to charge. The power to compel the company to carry persons under the circumstances as provided for in this act, for less than the usual rates, does not seem to be based upon any reason which has hitherto been regarded as sufficient to authorize an interference with the corporation, although a common carrier and a railroad.

The act also compels the company to carry not only those who choose to purchase these tickets, but their wives and children, and it makes the tickets good for two years from the time of the purchase. If the legislature can, under the guise of regulation, provide that these tickets shall be good for two years, why can it not provide that they shall be good for five or ten or even a longer term of years? It may be said that the regulation must provide for a reasonable term. But what is reasonable under these circumstances? Upon what basis is the reasonable character of the period to be judged? If two years would and five years would not be reasonable, why not? And if five years would be reasonable, why would not ten? If the power exist at all, what are the factors which make it unreasonable to say that the tickets shall be valid for five or for ten years? It may be said that circumstances can change within that time. That is true; but circumstances may change within two just as well as within five or ten years. There is no particular time in regard to which it may be said in advance and as a legal conclusion that circumstances will not change. And can the validity of the regulation be made to depend upon what may happen in the future, during the running of the time in which the legislature has decreed the company shall carry the purchaser of the ticket? Regulations for maximum rates for present transporation of persons or property bear no resemblance to those which assume to provide for the purchase of tickets in quantities at a lower than the general rate, and to provide that they shall be good for years to come. This is not fixing maximum rates, nor is it proper regulation.

The right claimed by these bills is here clearly denounced. The Court continues:

It is an illegal and unjustifiable interference with the rights of the company.

If this power exist, it must include the right of the legislature, after establishing maximum freight rates, to also direct the company to charge less for carrying freight where the party offering it sends a certain amount, and to carry it at that rate for the next two or five or ten years. Is that an exercise of the power to establish maximum freight rates? Is it a valid exercise of the power to regulate the affairs of a corporation? The legislature would thus permit not only discrimination in favor of the larger freighter as against the smaller one, but it would compel it. If the general power exist, then the legislature can direct the company to charge smaller rates for clergymen or doctors, for lawyers or farmers or school teachers, for excursions, for church conventions, political conventions, or for all or any of the various bodies that might desire to ride at any particular time or to any particular place.

If the legislature can interfere by directing the sale of tickets at less than the generally established rate, it can compel the company to carry certain persons or classes free. If the maximum rates are too high in the judgment of the legislature, it may lower them, provided they do not make them unreasonably low, as that term is understood in the law; but it can not enact a law making maximum rates, and then proceed to make exceptions to it in favor of such persons or classes as in the legislative judgment or caprice may seem proper. What right has the legislature to take from the company the compensation it would otherwise receive for the use of its property in transporting an individual or classes of persons over its road, and compel it to transport them free or for a less sum than is provided for by the general law? Does not such

an act, if enforced, take the property of the company without due process of law? We are convinced that the legislature can not thus interfere with the conduct of the affairs of corporations.

Further down, stating another phase of the argument in connection with it, this is the conclusion of the court:

This argument also loses sight of the distinction we made above between the two cases of a general establishment of maximum rates and the enactment of discriminatory, exceptional, and partial legislation upon the subject of the sale of tickets to individuals willing and able to purchase a quantity at any one time. The latter is not an exercise of the power to establish maximum rates

Now, without unduly taking your time, Mr. Chairman, Mr. Justice Peckham in writing this opinion seems to think that it is impossible to justify this class of legislation, emphasizing and restating the argument and emphasizing all the questions which cropped out in the argument all the way through. In paragraph 3 the same ideas which I have read are expressed and enlarged upon.

It appears from the opinion in that case that three of the judges dissented. It does not appear what the ground of the dissent was, but it is talk around the clerk's office that the dissent was upon the ground that the subsequent action of the legislature in declaring a lower rate than 3 cents was an improper interference with the contract rights of the railroad under the charter as against the State.

But this same question was before the Supreme Court again, and the rule in the Lake Shore case emphatically affirmed in Wis. &c. R. R. *v.* Jacobson (179 U. S., 288).

In the State of Virginia that same question was up recently. The question was there presented to the court as to whether or not the action of the State railway commision was legal, which fixed a 2-cent rate for a mileage ticket of 500 miles and over, where the maximum rate of the company for general travel was 3 cents per mile and whether a mandamus would lie to compel the railroad company to accept that reduced rate upon this mileage ticket. The supreme court of Virginia decided, being governed by the decision of the supreme court which I have just read in the Lake Shore case, exactly the same way, of course. Of course, it is the settled law of the land. In that opinion was cited the case to which I want to call the attention of the committee, of the Wisconsin M. and P. Railroad Company *v.* Jacobson, reported in 179 U. S., 288, in which all the judges concurred. This is the language of the court in the Jacobson case, referring to the decision in the Lake Shore case, decided at the former trial:

The distinction between this case and that of the Lake Shore M. & S. Railroad Company *v.* Smith is a very plain one.

There we held that the statute in question was not a reasonable regulation of the business of the company; that it was the exercise of a pure, bald, and unmixed power of discretion in favor of a few persons having occasion to travel on the road, permitting them to do so at a less expense than others provided they could buy a certain number of tickets at one time.

No language could be plainer; nothing could be more emphatic. They say:

There we held that the statute was not a reasonable regulation of the business of the company; that it was the exercise of a pure, bald, and unmixed power of discretion in favor of a few persons having occasion to travel on the road permitting them to do so at a less expense than others, provided they could buy a certain number of tickets at one time.

It was not legislation for the safety, health, or convenience of the public, "but was an arbitrary enactment in favor of the persons spoken of who in the legislative judgment should be carried at a less expense than the other members of the community, and there was no reasonable ground upon which the legislation could be rested unless the simple decision of the legislature should be held to constitute such reason, which it did not."

Mr. Chairman, it seems to me upon the law question pertaining to this mileage ticket——

Mr. GAINES. In some of the States have they not required that the railroads should carry free public officers?

Mr. PAYSON. I do not know; I can not state as to that.

Mr. GAINES. I think they have in New Jersey.

Mr. PAYSON. I do not know.

Mr. SHERMAN. It is so in New York as to the members of the State commission and all the employees.

Mr. PAYSON. It may be so, but if it is so it has never been tested so far as I know. It would be a matter of so trivial importance that it would justify the raising of the question on sentimental grounds; and second, it has been only such a short time that people have engaged that this humanitarian work has been present in legislative matters that perhaps they should be carried as a matter of courtesy by the railroads anyway.

Mr. GAINES. It was put on the ground, I believe, that they were public officers.

Mr. PAYSON. Perhaps so. But I do not think that these finer distinctions as to what may or may not be done, or may or may not be permitted to be done, by the railroad company on other lines ought to be permitted to trench upon the question here, which is solely the question whether a reduced rate upon a mileage ticket be enforced by law in passenger traffic. It is not allowed in freight transportation.

Mr. MANN. Does not every railroad in the land make a difference between carload lots and less than carload lots?

Mr. PAYSON. But not between individuals having carloads lots and individuals having less than carload lots.

Mr. MANN. No; it does not make any distinction between individuals in that way.

Mr. PAYSON. No, but these bills propose that. But there is a distinction between you as a rich man and me as a poor man. But this matter of carload lots is not the question here. It is as to the discrimination in favor of a class, giving it reduced rates in railroad transportation, and before I am through, if the committee will honor me with its attention, I shall have something to say in regard to the passenger traffic upon the one side and freight transportation upon the other side, and I wish to answer the question of Mr. Esch and the question asked by some of the other gentlemen. But to take that up now would require me to depart from the order that I have fixed in my mind for the presentation of this matter.

The CHAIRMAN. Will you be able to finish to-night?

Mr. PAYSON. No, I do not think so.

At 4.20 o'clock p. m. the committee adjourned until to-morrow, Wednesday, January 9, 1907, at 10.30 o'clock a. m.

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
HOUSE OF REPRESENTATIVES.
Washington, D. C., Wednesday, January 9, 1907.

The committee this day met at 10.30 o'clock a. m., Hon. William P. Hepburn in the chair.

The CHAIRMAN. The committee will be in order. We are now ready to proceed, Mr. Payson.

STATEMENT OF MR. LEWIS E. PAYSON—Continued.

Mr. PAYSON. Mr. Chairman and gentlemen of the committee, at the adjournment yesterday I had proceeded to give the committee the results of some researches on the question of the constitutionality of the Sherman and Adamson bills. I cited, as the committee will remember, the decision in the Michigan case in 173 U. S. The doctrine laid down there was reaffirmed and emphasized in the Jacobsen case, in 179 U. S., as I showed. I now present also upon the same question a decision in the case of Beardsley *v.* The New York, Lake Erie and Western, found in the 162 N. Y., at page 230. The syllabus of the case expresses everything that is in it, so I need read only that (reads):

Mileage-book act unconstitutional as to existing corporations.—The mileage-book act (L. 1895, ch. 1027), requiring railroad companies to issue mileage books under a penalty for refusal to do so, is unconstitutional as to corporations existing at the time of its enactment, since the statute is an illegal invasion of the property rights of such corporations, as declared by a decision of the United States Supreme Court.

Beardsley *v.* N. Y., L. E. and W. R. R. Co. (15 App. Div., 251), reversed.

(Argued January 29, 1900; decided March 2, 1900.)

In the opinion occur quotations made from the decision in the Lake Shore case. The decision proceeded solely upon the ground that the statute was an illegal invasion of the property rights of the company.

Now, it is only right and proper that I should say that one of the judges dissented, but it was concurred in by the others.

Mr. KENNEDY. What case is that?

Mr. PAYSON. The case of Beardsley, respondent, *v.* The New York, Lake Erie and Western Railroad Company, found in the 142 N. Y., at p. 230.

The Chairman, who at the moment is absent, asked that somebody who would present legal arguments against these bills address himself to the proposition as to the constitutional power of Congress to interfere and compel practically contractual relations between different corporations without their agreement or consent in this, that the tickets proposed to be issued should be arbitrarily accepted by other roads than that of the issuing carrier. I said that that question had been expressly decided, and I call the attention of the committee to a decision in the 160 Mass., at page 62. The case is The Attorney-General, etc., *v.* The Old Colony Railroad Co. So much of the different syllabi as apply to this question I will read:

A statute which authorizes one railroad to determine the conditions on which another railroad must carry passengers and compels one railroad to carry passengers on the credit of another is unconstitutional. By Field, C. J., Allen and Morton, JJ. Holmes and Knowlton, JJ. dissenting.

If it be assumed that, under the power to regulate the fares of common carriers of passengers, the Legislature can require the passengers to be carried before the fares have been actually paid in money, the security for the ultimate payment of the fares in money ought to be as certain as that required when private property is taken for public uses, and a statute which does not provide adequate security is unconstitutional.

Again, on the bottom of the page—

The railroad commissioners were authorized in their discretion, on petition, to exclude any railroad from the provisions of the act. Held, by Field, C. J., Allen and Morton, JJ., that the statute required a railroad company to transport passengers and receive therefor tickets which merely gave separate causes of action against another railroad company, and provided no security that they would be redeemed in money by the railroad issuing them when presented for redemption, although they might be used for transportation long after they were issued; that the company issuing tickets might impose upon other railroads duties in the carriage of passengers different from those it assumed toward passengers who purchased tickets of itself, and the tickets might be used indiscriminately upon all railroads within the Commonwealth not excluded from the statute, and were not confined to railroads engaged in transporting passengers in connection with the company issuing the tickets; that the railroad commissioners might exercise their power of exclusion in season to prevent loss from a failure of the company to redeem the tickets issued, or they might not; that the rights of railroad companies ultimately to receive in money the fares of passengers ought not to depend upon the discretion of the railroad commissioners, and if the statute would be invalid but for this discretion this provision would not make it valid; and that the statute was void.

I do not read from the opinion. They discussed the question in an elementary way, defining what a contract is. Every member of the committee knows what it is as well as I could tell it, and perhaps better, that the common law rule is that there must always be mutuality in order that there should be dependent responsibility; that a contract to be binding, must be by mutual agreement between the two, and that no law can be passed by which it shall be said that the Pennsylvania Railroad, for example, shall issue a mileage ticket by which the management of a railroad running on the Pacific coast shall be made to contract with the Pennsylvania as to the ticket presented to it. That position could not be sustained anywhere, and the Massachusetts court so decided.

Mr. Mann. Please discuss the question, not whether Congress has authority to compel one railroad to contract relations with another, but whether Congress has authority to forbid a railroad from engaging in interstate commerce except upon such terms as Congress may fix.

Mr. Payson. That would depend, Mr. Mann, upon what those contracts might be. But I think I can answer it in a moment satisfactorily to myself, at least, that interstate commerce as such can not necessarily be compelled—that is to say, you can not compel a railroad in one State, aside from its own pleasure, to do its business with another. If it does undertake to do its business with another road, you can regulate that business; but until it voluntarily engages or enters into some arrangement with some other road which makes the commerce passing over it interstate commerce you can not do anything with it.

Answering you more directly, all that Congress can do is to "regulate commerce" when the commerce exists.

Mr. Mann. That is the point I wanted to get, but I do not think we have authority to compel a railroad to do that.

Mr. Payson. This bill does it.

Mr. Mann. The bill is not necessarily to pass in the precise form in which it is presented.

Mr. Payson. It is pretty difficult, Mr. Mann, as you will appreciate, in an offhand way to answer satisfactorily, even to one's self, every possible combination or proposition that might come up on a subject like this, which embraces, as I said in opening, the greatest question ever discussed, in my judgment, in this committee room.

Mr. MANN. My idea was to ask you what you proposed to discuss.

Mr. PAYSON. I do not propose to discuss that. I propose to discuss the pending bills, and the principles underlying them. To this point only questions of power of Congress are presented. I shall be glad to address myself to any proposition that shall be put in tangible form and give the committee the benefit of any judgment I might have in connection with the general question. These authorities, as I take it, Mr. Chairman and gentlemen, settle the question in the Sherman bill, first, as to whether these tickets can be made good upon any trains of any railroad in the United States. I would say, Mr. Chairman, that in your absence I had just addressed myself to the question you suggested yesterday, that some of the attorneys should speak to the committee as to the power of one railroad to compel another railroad to accept its ticket, and I cited a decision in Massachusetts where the decision in a case like that was adverse to the contention.

There is another proposition in the Sherman bill, and that is the proposition that these tickets are to be unlimited as to time of use. That, Mr. Chairman, is to me the most absurd proposition, the most unprecedented proposition, that I ever heard of in legislation. For the first time in the history of civilization is it seriously proposed that no statute of limitation shall apply to a matter of contract. By this bill the ticket is to be good forever. The ticket holder awaits his own convenience as to when he shall use it. If he gets any advantage by reason of reduced rates, certainly a reasonable limitation upon their use ought to be allowed, and what that limitation shall be has been declared time and time again to be a "reasonable time." The Supreme Court in the Lake Shore case which I cited yesterday, as the gentlemen will remember, called attention to a provision there, in the statute, as to its invalidity, because the time was limited to five years. The Supreme Court said, in substance, "Why not 10 years? Why not 2 years? The legislature had no power in itself to say what that reasonable time should be, because that is a matter of regulation which the company has the right to fix itself."

The bill says further, "Shall not be restricted in passage on any passenger train of any railroad engaged in interstate commerce." The bill goes on to provide that the use of these tickets shall not be restricted in passage on any passenger train of any railroad engaged in interstate commerce and shall be redeemed upon presentation at any ticket office of any railroad engaged in interstate commerce at the face value. I assume that prohibition of restriction is intended to run against any better class of trains on which a higher charge is made, as they are utilized on the Pennsylvania and other railroads. As to that, I do not care to take up time with it.

Mr. SHERMAN. Do you call an increase of fifty per cent between New York and Chicago a little increase?

Mr. PAYSON. Well, Mr. Sherman, the use of these limited trains is practically a luxury. That is all there is of it. The ordinary accommodation which the people demand and which every railroad in this country furnishes is sufficient for anybody. Nobody wants to ride under better conditions than in a car that cost $12,000 or $15,000, upholstered better than the average house of an ordinary citizen—better than my own house—and with all sorts of conveniences and appointments as good as a man gets in his own home. In addition to that, if a man wants to ride in a special train or in a special car, I do not see any

reason why Congress should step in and say he should not have it if he pays for it.

Mr. SHERMAN. You have not answered my question as to the fifty per cent increase. The Twentieth Century Limited on the Pennsylvania road charges that.

Mr. PAYSON. I did not know what the charge was; I did not know as to that; but I do not think that affects the question. It is one of those outside matters that Congress ought not to concern itself with. It is purely a matter of luxury. It is not intended to meet the ordinary public convenience as such, or serve the public transportation from one metropolis to another. If a man wants to pay for it, I do not think Congress has the right to interfere with it. I do not think that method of travel cuts any figure here, one way or the other. If business men desire to pay for the extra cost of cutting the time to 18 hours from New York to Chicago, I do not think Congress should or could properly interfere, so that the cars are open to all. Then comes the last clause, "Redeemable at any ticket office of any interstate railroad at its full face value." Well, that comes within the same rule as has been pronounced against in the Massachusetts case, and presents a proposition that on its face, it seems to me, ought not to commend itself anywhere. Suppose some little lumber road up in Michigan issues a mileage ticket, or mileage book, and it is presented for redemption at San Francisco, at the Union Pacific office; we have to cash it, and we have to hunt up the road. There must necessarily be some clearing-house arrangement fixed by which these things shall go through, and in the meantime we take our chances on getting the money back, and there are forged tickets to be guarded against, and things to be taken care of, and clerical work to be done; and hundreds of things can be better elaborated in that line by gentlemen who are in direct touch with the operating affairs of railroads than I. But on the face of it you have not the power to do it, and in any event you ought not to do it, even if you had the power. I think this view ought to commend itself to every sensible man on the Committee.

Mr. SHERMAN. Right there I, as the introducer of the measure, think that Congress ought not to compel any road other than the issuing road to redeem the ticket.

Mr. PAYSON. Then you still retain in my mind the position of a sensible man, as I have regarded you, lo! these many years. [Laughter.] But finding that you are the author of it, and not finding any man who favors the bill except you, and not having heard of anybody pressing for its consideration [laughter] I thought perhaps there might be good faith in the last clause of the bill——

Mr. ADAMSON. I remedied that mistake, as you will find, in the last clause of my bill.

Mr. PAYSON. Then there are two of you who are sensible men. [Laughter.]

Mr. MANN. There are three bills pending.

M. PAYSON. Yes. The Adamson bill I will come to presently.

That, Mr. Chairman, is all I have to say with reference to that particular feature.

The CHAIRMAN. Before you pass that proposition suppose that the provision suggested by Mr. Adamson should be the provision of the law. What effect would that have upon the scalper and the increase of that honest industry? [Laughter.]

Mr. PAYSON. Well, that part of it, Mr. Chairman, I would rather not go into, for the reason that I am not a practical railroad man.

Mr. ADAMSON. You do not think a scalper would find any margin of profit in a thing which the railroads were ready to redeem at cost?

Mr. PAYSON. I am not prepared to say what the effect of that might be as to actual loss or inconvenience. I know that the railroad men everywhere, the traffic managers and passenger agents everywhere, laid a great deal of stress on the inconvenience, not to say the actual loss, that would occur if this provision of the law should obtain. They can give you the reasons for that better than I can, and will, I doubt not, do so.

The CHAIRMAN. It was suggested here yesterday, as to the redemption of the unused portion of the ticket, that there would be facilities in every part of the country, and that that would do away with the scalper. If you struck that out and limited the redemption to one road, the road of issue, what would be the effect as to the scalping industry? I would like to get your views as to that contention.

Mr. PAYSON. I have no views to present to the committee on that which the committee should give any weight to, because I am not a practical railroad man. I am simply a lawyer. Though I claim to have pretty fair intelligence, and though I have been a close observer of matters concerning railroads since I went out of Congress fifteen years ago, this is not one of the questions I have studied.

I see over there Mr. Hardwick of the Southern Railway, than whom I do know no one of more force and intelligence whom you have before you to address you, and doubtless he will be heard at a later stage of the proceedings, and his statement, representing as he does thousands of miles of railroad, as to that subject would be worthy of credit, while mine would be simply reflected light.

Now the Adamson bill, Mr. Chairman, I do not think would be better on the general proposition, except as to the redemption of the tickets and this restriction as to trains that I spoke of. This is clearly unconstitutional, it seems to me—the provision with reference to mileage books, that they shall be good on all railroads engaged in interstate commerce. It says the railroads on which they shall be good shall be specified therein. When you go to make a mutual arrangement with reference to that and contemplate, too, that the action shall be with reference to the interstate roads in this country, the query arises, How many are included in it? As a matter of fact, I am told this by Mr. Knapp, the chairman of the Interstate Commerce Commission, that there is hardly a road in the United States that does not come under the jurisdiction of the Interstate Commerce Commission in some form or other. Take, for example, some little branch line in the State of Washington or Oregon, running under an independent organization. If it has a package to carry and marks it, say, from Klickitat, Wash., to Reno, Nev., and that package goes by through carriage, it is subject to the Interstate Commerce Commission and has to follow its schedule.

Mr. KENNEDY. Every road that carries the mails also?

Mr. PAYSON. Yes. The entire railroad system of the Union, vast as it is, two hundred and odd thousand miles of trackage, is practically under the direction or jurisdiction of that Commission. The railroads on which these tickets shall be given are to be specified therein. Who is to determine that? The man who wants to use them? Then you

compel the clerical force of the company to fix up the ticket to suit his convenience, specifying where it shall be good, and give it to him and let him use it at his convenience.

Now, I hold in my hand one of the mileage credential scrip books, as it is called, reference to which was made here yesterday, and used by the Union Pacific System and its associates. As to the roads in the extreme Northwest associated in their use, while I have never counted them, there are at least 74 railroads upon which that script mileage can be used. These railroads have entered into a mutual arrangement by which this script, as it is called, which is really a sort of currency for the purchase of tickets at reduced rates——

Mr. ADAMSON. Right there on that point of the bill you are discussing, if a passenger wanted to buy a book and did not wish to use or avail of some of these roads, could he not exclude in the contact such of them as he did not expect to use?

Mr. PAYSON. Under the operation of this bill, of course; but that requires, every time a man wants to travel or make a journey in a way involving two or three railroads—that requires sitting down and fixing up his itinerary with the agent, naming each particular road that he wants to use.

The point I am making is that some of the railroads of the country have entered into this sort of arrangement by an agreement peculiar to themselves, and there is a regulation by law that a head or a chief officer and clerk and all that sort of thing shall be established and a clearing house for arranging the business. But everybody knows what they have got. They pay for this scrip book [holding up a specimen] when they get it, and with it they buy the ticket which they want, which is good upon any one of these roads. But they are good simply because in the first instance they have contracted among themselves and agreed to recognize the ticket thus issued, not because it is a compulsory matter forced upon them by Congress. Any one of them could pull out of it and have no right to complain. But in order to bring about reduced rates and still prevent these tickets from getting into the hands of scalpers the roads have voluntarily made this arrangement between themselves. The Union Pacific system issues this scrip [exhibiting same].

Mr. MANN. Is that a form of mileage ticket?

Mr. PAYSON. No; this is scrip currency.

Mr. MANN. I wish you would explain what that is.

Mr. PAYSON. I will. This is a simple business. Yon can buy one of these books for $90 and another for $50 and another for $40.

Mr. MANN. Of equal value?

Mr. PAYSON. No, sir. That is the amount of money you put up. Then they give you a lot of truck, such as I have in my hands here [exhibiting same], with certificates. It is used by the traveler as currency. The holder presents that, and he gets the benefit of the reduced rate that these companies have agreed they will furnish. In some cases it is as low as 2 cents a mile and in other cases it is higher, and the only advantage to the passenger is that he has a currency by which he can go to any office embraced within the system of railroads cooperating in this arrangement and get his transportation over any of those lines of railroad at the reduced rates over two or more roads. When he presents this currency, for examnple, for a ticket to New York he signs his name here [indicating]. It is in du-

plicate. One he keeps and the other goes to the conductor, and in the end it goes through the clearing house of these companies and they balance it up with each other. But that is only a matter of detail in keeping the accounts. This form is used preferably to the usual mileage book.

Mr. CUSHMAN. Where is the check on the transportation, showing how much has been used and how much is yet to be used?

Mr. PAYSON. It is checked up here on the slips, so that it can be known and ascertained how much has been used and how much remains unused, but at the start the traveler gets for $90, say, this scrip, good for $110 or $115 worth of travel at usual maximum rates.

The provision in the Adamson bill is absolutely impracticable in a business way in handling the transportation of this country. It can not be done.

Mr. RYAN. That is pretty tough, Adamson. [Laughter.]

Mr. PAYSON. When I say that I merely repeat what I am told by railroad gentlemen—practical traffic men.

Mr. MANN. I suppose the committee understands your explanation, Judge, but to me it is just as clear as thick mud. [Laughter.] Never having had occasion to use those, I have not the slightest idea of what they mean.

Mr. ADAMSON. I think the explanation is that it does voluntarily what our plan is to do.

Mr. PAYSON. Yes. This leaf [indicating] is only one part of the literature contained in it. It is simply presented as a sample of the method of doing the business. The scrip is a currency for which over all the roads in the association reduced rates may be had.

Mr. SHERMAN. Something in the nature of express checks?

Mr. PAYSON. I never used one, but if they represent value I should say so. But I have injected this into this discussion simply to show that there are instances where the principle intended to be covered by the Adamson bill is already voluntarily followed by certain railroads. There are certain railroads that voluntarily enter into an arrangement by which they will agree to accept the tickets from some other roads which are specified on the tickets themselves if you belong to this association.

Mr. ADAMSON. You admit that there are a large number of railroads engaged in that or a plan similar in detail, and yet you say it is unconstitutional for Congress to do that. You say Congress can not do that, while they are doing it themselves in a certain way.

Mr. PAYSON. Yes, sir. There are many things that I might suggest to you, Mr. Adamson, which are done every day in railroading, and which you participate in—done by the railroads voluntarily—things which Congress could not compel them to do, as excursion party rates, special rates to laborers, etc.

Mr. CUSHMAN. There are certain things that a man can do of his own volition?

Mr. PAYSON. Yes.

Mr. CUSHMAN. He can get married if he wants to, but there is no legislative power to compel him to get married? [Laughter.]

Mr. PAYSON. No. But let us keep the illustration a little bit better in hand. In the South some of the railroads along the seaboard have petitioned the Interstate Commerce Commission to allow them to make a special passenger rate from the North, because of

the demand for oyster shuckers down there, and the Commission will soon issue an order allowing for a lowering of the rate

Mr. HARDWICK. The Interstate Commerce Commission has issued the order, I understand.

Mr. PAYSON. You could not compel them to do that, but on account of the appeal made by people down there who had hundreds of thousands of bushels of oysters going to waste for lack of people to shuck them, the Commission have allowed those roads to reduce the rate for the transportation of people to do that work. The road could not be compelled to do this, but to promote the prosperity of the locality by preparing the oyster for market and securing a high class of freight for themselves they do it. In like manner, cheap rates for laborers to the cotton fields and to the beet sugar farms. All these, voluntary acts by the railroads, but which could not be compelled.

Now, take the case of excursion trains. You can not compel a railroad to carry excursionists at excursion rates, and yet there is a little branch line road near here called the Annapolis Branch of the Baltimore and Ohio Railroad running from Annapolis Junction to Bay Ridge, Maryland, where every summer they run excursion trains from Washington by the Baltimore and Ohio to Annapolis Junction and then by this branch line to Bay Ridge, altogether a distance of about 46 miles, at one-half cent a mile, or perhaps less.

Mr. RICHARDSON. I suppose they discriminate?

Mr. PAYSON. Undoubtedly.

Mr. RICHARDSON. Do you recognize the right we have to expedite the transportation of perishable proprety?

Mr. PAYSON. Undoubtedly. That is "regulation." There is a right to ship. If a man has perishable property he has the right to have it transported expeditiously.

Mr. RICHARDSON. Give it a preference?

Mr. PAYSON. Yes; as to live stock and perishable property like vegetables and fruit. You undoubtedly have the right, because it comes under the principle of the "regulation" of the traffic.

Mr. RICHARDSON. What distinction do you draw between perishable property and the oyster?

Mr. PAYSON. Oh, the question was not of transportation of the oyster. I was simply talking about hauling people down there at a cheaper rate to shuck the oysters; that it was a discrimination as to rates, but not an unjust one; that the roads did it, but could not be compelled to do it.

Mr. ADAMSON. You may be right on this question, but I will not entirely accept the illustration suggested by you and Mr. Cushman, of voluntary marriages not covered by law. [Laughter.]

Mr. PAYSON. There are hundereds of things of this character, Mr. Adamson, that railroad companies may do, and do rightly and properly, but which Congress could not compel them to do if it desired; and that distinction is clearly made in the Lake Shore case that I read here yesterday. In that case the distinction is clearly recognized.

Mr. RICHARDSON. Don't you think, as a legal proposition, that Congress is confined alone in its jurisdiction to see that the rate is reasonable and fair?

Mr. PAYSON. Undoubtedly, that is the limit of its authority. Everything else is a means to an end. Then, the proposition comes in, What is the best way to do it?

Mr. RICHARDSON. The conduct of the railroad is subject to the Government in charge of it?

Mr. PAYSON. Yes; and the rate must be reciprocal, not only to the public but among themselves.

Mr. ADAMSON. All Congress does as to the interchange of tickets and operating under that arrangement is to say, "Your rate and prices are not reasonable. What are reasonable?"

Mr. PAYSON. No; you would not say that on discussion, and you would not have the right to say it if you wanted to, because, first, they have a right to enter into any contract relation they please as to the issue and value and the expense of tickets on other roads not in violation of law.

Mr. ADAMSON. Suppose the rates are not reasonable?

Mr. PAYSON. That is another proposition. Whether the rates are reasonable or not is a matter connected with the details of transportation. There is a very clean distinction between tickets which evidences the right you have to ride from New Orleans to San Francisco over our line, the Santa Fe system, or whether we will agree with the Southern Railway Company, for example, to accept their tickets when presented.

Mr. ADAMSON. Suppose we provided that instead of compulsion to the railroads to enter into these arrangements and redeem these tickets—suppose we say that those railroads that do enter into those arrangements such as you have described shall do so at certain rates. Is that constitutional?

Mr. PAYSON. I do not think I will commit myself on that. That is not involved in any of these bills. When you propose to do that the question will then be presented.

Mr. ADAMSON. We are simply trying to reach the trouble and remedy it.

Mr. PAYSON. The principle of your bill, H. R. 21572, if there is any principle in it—I do not say this in a disrespectful way—is that the road shall issue the tickets or mileage books when requested good upon any road engaged in interstate commerce. That is the proposition; not that it may be modified in some way, but there is the proposition. The question is whether that ought to be approved by this committee. The courts hold that the legislature has no such power.

Mr. ADAMSON. We are talking here with a view to arriving at intelligent legislation. Suppose that language were amended so as to say that the roads now engaged in that operation, or that will be engaged in that sort of operation—we are considering that subject now——

Mr. PAYSON. I will give you my idea as to that before I conclude here.

Mr. BARTLETT. May I ask you a question?

Mr. PAYSON. Certainly.

Mr. BARTLETT. I did not have the pleasure of being here yesterday when you addressed the committee, but I caught from what you said this morning that without requirement on the part of Congress the railroads with which you are connected had issued these mileage tickets at 2 cents a mile and that they were recognized on other roads, but that a statute of Congress compelling those roads to do that sort of thing would be unconstitutional, even if such a rate were a reasonable rate.

Mr. PAYSON. I have not said that. I have addressed myself to the Sherman bill and as to existing conditions. We know what the conditions are. There is not a place in this Union where a 2-cent rate obtains by law except in the State of Ohio.

Mr. BARTLETT. Then the ground of unconstitutionality would be that it is confiscatory?

Mr. PAYSON. Yes, sir; that it would be depriving the company of its property without just compensation or due process of law.

Mr. BARTLETT. In the event, though, that it should be determined that such a rate, a 2-cent rate, was a reasonable rate, not such a rate as to deprive the railroads of their property without due process of law or without just compensation, would in your judgment such a provision be constitutional to compel a railroad to accept such rate?

Mr. PAYSON. I should say, in an offhand way, that I do not see any objection to that. If the proposition given is, that the rate is a reasonable rate, then I see no objection to the mileage books to evidence that. But that is not the proposition we are discussing. We discussed the Sherman bill here yesterday, in your absence, on the basis of existing conditions—what the mileage rate is everywhere, what it is in different localities, and the conceded fact that the Sherman bill proposes a rate which is less than the established rate in any place in this Union, except in Ohio, as to interstate commerce.

Mr. BARTLETT. Then it would be unconstitutional in its application, and not in its terms or its substance?

Mr. PAYSON. It is unconstitutional as a legal proposition, and when you come to apply it you can not do so, because it is unlawful to do it. If the compensatory rate was in fact 2 cents a mile, I could see no objection to issuing a mileage book on a 2-cent basis. But nothing could be gained by that. Whenever a man wanted to travel he need not put up $40. He puts up $10 from here to New York and gets his transportation. It is only on the European plan—a man gets what he pays for. But all these other things are devices by which somebody may get a less rate out of the company than the average citizen gets.

Mr. BARTLETT. I can very well see how the courts might decide that the State law which would reduce a rate below that which might be authorized in the charter granted to the railroad would be unconstitutional, on the ground that it impaired the obligations of a contract; but I did not see how you could apply that rule to the Congress of the United States, because the Constitution of the United States has no such provision in it.

Mr. PAYSON. That phase has not been discussed yet. That is all I care to say, Mr. Chairman, with reference to the specific propositions of these two bills.

Mr. MANN. Let me see if I understand that proposition of Judge Bartlett's. Is your contention that if Congress should require the issuance of mileage books—say, at the same rate that exists as to single-trip tickets—that that would be a mere regulation and constitutional?

Mr. PAYSON. I simply say that at the moment I see no reason to question it, but I do not see how the question would ever present itself, because I do not see how a man would want to buy a mileage book at the regular rate of local traffic. But I do not hold one way or the other about it. The proposition was injected here through misapprehension on account of the absence of a Member yesterday, and I say

simply that the question has not been discussed. I am not prepared to give an authoritative opinion, as to myself, concerning it, but I see no reason for not acquiescing in the proposition of my friend from Georgia [Mr. Bartlett.]

Mr. MANN. Then if the proposition is to reduce the mileage rate on the single ticket, that is not a regulation and, not being a regulation, is without the authority of Congress?

Mr. PAYSON. That is what I stated, and the Supreme Court has decided that in two cases, and the State of Michigan and the State of Virginia.

Mr. BARTLETT. Have you given the cases?

Mr. PAYSON. Yes, sir; that was done during your absence. The last decision in Virginia was November 22, 1906. It is a very recent case. It has not been reported yet in the books, but this [exhibiting] is a copy of the opinion.

Approaching, then, Mr. Chairman, the general proposition in the last two bills, assuming that the Adamson bill might be amended by striking out the proviso, it then remains practically the same, as far as this discussion is concerned, as the bill of the gentleman from Ohio, Mr. Kennedy; that is, providing for a flat 2-cent rate on all railroads in the Union. It is to that question that I now address myself, and I desire to repeat again what I said yesterday, Mr. Chairman, that in my judgment there has never been as important a question discussed in this committee room as this question, nor involving as large affairs, nor which would be as disastrous in results, if the results were wrong, as the proposed action under these bills.

It would be best illustrated, perhaps, when I state the clientage which I have. My clients are the Union Pacific system, as it is known among railroad men, embracing the general system of railroads from Kansas City north and west, and from Omaha north and west, known as the "Union Pacific system," the "Southern Pacific system;" the aggregate mileage of both being 15,124 miles of trackage, extending on the South to New Orleans, western Louisiana, Texas, New Mexico, southern California, to San Francisco; thence north to Portland, Oregon, east from there to Ogden. Five miles west of Ogden is the Southern Pacific system. The two extreme portions of the country are embraced within its limits. The systems are operated in 13 States of the Union and in the 2 Territories of Arizona and New Mexico. There is not a railroad system in the country or in the world that presents as great a diversity of conditions as do these two systems now embraced in what is known as the "Harriman lines." In other words, the Harriman lines, as operated to-day, embrace a greater variety of all sorts of conditions, every one of which must be taken into consideration in determining what a reasonable rate is, than any other railroad system in the whole world. Not only are the main lines involved, but there are connected with the different systems, without stopping to read them, fourteen large branch lines that are operated independently—I mean independent corporations, but under the control of the parent companies; there are twelve branch lines of the Oregon Navigation and Railroad Company, two leased lines in addition outside of its own line, and there are independent branches of the Oregon Short Line; there are eleven branches of the Union Pacific main line, and on the Kansas Pacific there are eight branches in Kansas and one in Colorado.

This little folder map which I hold in my hand [exhibiting] upon

which are colored in red the lines which I represent, and which are involved under the terms of this bill, gives in a very graphic way the different lines of road indicated, and you will see from an examination of it how numerous they are in the total. Here also can be seen the number of little branch lines, particularly in the Southwest, and then in the West and Northwest, and the condition of the trackage system. I have said the total mileage is 15,124 miles.

Then the question that suggests itself at the threshold, Mr. Chairman, is whether a blanket rate of 2 cents a mile is a proper thing to apply to that system of roads. I leave out of consideration for the present other railroads in the country, except for purposes of illustration. I insist, Mr. Chairman, that these bills are palpably unjust and unfair on their face. They provide for a general absolute uniformity of rates as to all interstate roads, and therefore for practically all roads in the Union; and while at the threshold it may be that for the trunk lines, for such roads as the Pennsylvania, the Baltimore and Ohio, the New York Central, the New York, New Haven and Hartford, who have trains as frequent and as long as can be speedily hauled, and every car practically filled to its utmost capacity, 2 cents a mile might be profitable, yet no such rule can be applied to the Western and Southern roads where the full demand on the part of the public is satisfied by infrequent trains used by but few passengers.

It is utterly absurd, it seems to me, Mr. Chairman, to apply a rule fixing 2 cents a mile as the rate on the comparatively compact lines of the eastern roads, with low grades and cheap fuel, and a similar rate to the Western roads, in the foothills of the mountains and in the mountains themselves with violent grades, with sharp curves and tunnels, and obstacles to cheap operation. The volume of business may be greater on one line than on another, and yet the cost of construction and maintenance may be largely less; and to enforce the same rate in both cases would be palpably unjust to one. Nothing could be clearer, in the light of experience, than that the greatest variety exists in the capacities of roads, so that it is absolutely impossible to fix a fair blanket rate.

Now, I take it, Mr. Chairman, that the proposition will not be disputed—it runs through all the books, and will be conceded by any friend of this legislation—that every railroad is entitled to reasonable compensaion for the service which it renders. The kind of business, the amount of the business, and the cost of it are necessary factors. None of them can be disregarded. They are necessary in determining the rate, and in connection with the cost of the plant. Now, these elements, as I name them, must be considered as absolutely controlling: First, the fair original cost of the construction of the line; second, the amount expended in permanent improvements; third, the operating expenses, including taxes; next, the expenses of maintenance of right of way, and fixed charges, interest, dividends, and so forth. This is as to cost.

Now that these elements are absolutely necessary to be considered by the rate-making power has been expressly decided by the Supreme Court of the United States. I read from the leading case of *Smith* v. *Ames* in 169 U. S., and in this book, which is my edition of the Supreme Court Reports, the Lawyers' Reports Annotated, 169, *Smith* v. *Ames* (vol. 42, p. 849)——

Mr. ESCH. Is that what is known as the Nebraska case?

Mr. PAYSON. Yes. On page 849 of this compilation (vol. 42, U. S. Supreme Court Reports, 167,170,) Mr. Justice Harlan's opinion is given; and before I read that, let me say it is the leading case on the question of the application of reasonable rates as applied to different conditions. It is the most exhaustive opinion I have ever seen on that question. It was delivered, I say, by Mr. Justice Harlan, and it occupies many pages here, and involves some other questions to which I will call your attention later. But the precise point now is found on page 849. The point in this case was whether the rates in Nebraska, which were confessedly 40 per cent higher than those charged for similar service in the adjoining State of Iowa, were such a difference of rates as would warrant the court in interfering. In accordance with the rate fixed by the Iowa Commission, 40 per cent was the difference; and the court goes on and takes into account what must be considered in determining whether the rate is reasonable. The Supreme Court decided in that case that a difference of 40 per cent in the charges for the same service in adjoining States was not unreasonable, and the people of Nebraska had to submit to that——

Mr. BARTLETT. May I interrupt you there to ask a question?

Mr. PAYSON. Yes, sir.

Mr. BARTLETT. On the contrary, did they not decide as to the action of the Nebraska legislature or commission that the rate they fixed was too low and confiscatory; not that the rate then in existence was the rate that ought to be permitted to stand, but that the rate that the Nebraska Commission fixed was too low?

Mr. PAYSON. Not as you put it; but, on the contrary, they held that the rates fixed by the railroad company, and which the railroad company was enforcing, and which were 40 per cent higher than those in Iowa, were not unreasonable rates, and the railroad company might go on and collect them. That was what they decided.

Mr. MANN. I do not see how they could decide that, because that was not before them.

Mr. PAYSON. On the contrary, there was nothing else before them. than the question as to whether the railroad rates were unreasonable, as being largely in excess of the Commission rates.

Mr. MANN. No, what was before them was whether the rates fixed by the Nebraska Commission were unconstitutional. That is all the Supreme Court passed upon, and the Supreme Court in that case and in every other case that has been before it has expressly declined to say what are reasonable rates.

Mr. PAYSON. But they did say that in the case before them the railroad rates were not unreasonable, and that the road was not compelled to adopt the Commission rates in the then situation in Nebraska. They decided that in every case.

Mr. MANN. The rates fixed were not reasonable rates?

Mr. PAYSON. No; they put it on the ground that the records showed that the railroad rates were not unreasonably high, and necessarily that the Commission rates were unreasonably low——

Mr. MANN. We had all that up in the discussion of the rate bill.

Mr. PAYSON. Yes; but it may be barely possible, Mr. Mann, that in the application of this case the conclusion you came to in the other proposition may not be the conclusion you come to in this one. That is barely possible.

Mr. MANN. That is often the case.

Mr. PAYSON. The Supreme Court in Smythe *vs.* Ames fixes the data upon which reasonable rates should be ascertained. The court in this case said:

We hold, however, that the basis of all calculations as to the reasonableness of rates to be charged by a corporation maintaining a highway under legislative sanction must be the fair value of the property being used by it for the convenience of the public, and in order to ascertain that value, the original cost of construction, the amount expended in permanent improvements, the amount and market value of its bonds and stocks, the present as compared with the original cost of construction, the probable earning capacity of the property under particular rates prescribed by statute, and the sum required to meet operating expenses, are all matters for consideration, and are to be given such weight as may be just and right in each case. We do not say that there may not be other matters to be regarded in estimating the value of the property. What the company is entitled to ask is a fair return upon the value of that which it employs for the public convenience. On the other hand, what the public is entitled to demand is that no more be exacted from it for the use of a public highway than the services rendered by it are reasonably worth. But even upon this basis, and determining the probable effect of the act of 1893 by ascertaining what would have been its effect if it had been in operation during the three years immediately preceding its passage, we perceive no ground on the record for reversing the decree of the circuit court. On the contrary, we are of opinion that as to most of the companies in question there would have been, under such rates as were established by the act of 1893, an actual loss in each of the years ending June 30, 1891, 1892, and 1893; and that, in the exceptional cases above stated, when two of the companies would have earned something above operating expenses, in particular years, the receipts or gains above operating expenses would have been too small to affect the general conclusion that the act, if enforced, would have deprived each of the railroad companies involved in these suits of the just compensation secured to them by the Constitution. Under the evidence there is no ground for saying that the operating expenses of any of the companies were greater than necessary.

Now, there is an authoritative exposition of the factors which at least must be considered. This two-cent blanket rate simply fixes the arbitrary judgment. I do not want to put it as deliberate as that, Mr. Chairman; but it fixes the arbitrary guess of this committee as to what reasonable rates would be, in place of the detailed investigation that the law requires before you come to a conclusion, which you would be justified in arriving at, and, more than that, you fix the length, too, which is so great that not everybody can accommodate himself to it, although, according to the old fable of the bed, if a man is too long you cut him off to fit it, and if he is too short you stretch him out. That is to say, you put the same rate on the little branch line, say, from Maricopa to Phoenix on the Southern Pacific system, that you put on the great and busy lines from Washington to New York City.

Some years ago I had occasion to go to Los Angeles to try a suit in which the Southern Pacific was interested, and while there I had occasion to go to Phoenix in connection with a matter relating to the construction of a piece of railway, which has since then been constructed there. The junction of the main and branch lines was Maricopa; and at that time and until a few years ago it consisted of a very small and primitive station-house, in the second story of which lived the baggage-master, the ticket agent, the railroad telegraph operator, the commercial telegraph operator, and all combined in one person. [Laughter.] There was a little room at the end for the freight and baggage that came in, and also two little houses where the section men lived, and also what pretended to be a country store, the stock of which was largely canned goods and little souvenirs of that country,

the principal of which were specimens of the Gila monster, which were sold as souvenirs. That was the principal station on the line of that road between Tucson and Yuma. It had a water tank, and the water was hauled in tank cars and pumped up into the tank for the use of engines in emergencies when they needed water. The train from Maricopa to Phoenix was composed of two cars, one covering the requirements of baggage car and smoker and a day coach, and it made one round trip a day. There were two paying passengers and three passengers in all, I being one of the three, but riding deadhead. There were but three passengers on that trip. The coal burned in that engine was brought from Australia. It was before the absorption of the Southern Pacific system by the Harriman system. At that time the Southern Pacific did not mine a pound of coal on the eleven thousand miles of road it had, and the coal that was burned in that engine, as I learned in talking with the engineer and afterward verified the fact at San Francisco, came from Australia. That coal, as fuel, was eked out by mesquite roots and stuff gathered here and there to help out and economize the coal business. Two days afterwards five passengers came back on the return trip—four pay passengers and one deadhead. Many passenger trains on the main line had to carry an extra tank car besides the ordinary tank on tender to supply the lack of water that prevailed. The forward car was for Mexicans and greasers, and the rear car was for other passengers. That was the outfit of that train.

The water was hauled in to supply the lack that existed in that country and if they could not get a supply at Phoenix they got it from the Maricopa. There were three bags of mail in the mail train going in and two coming out, neither one of which was filled, and the amount of express matter that was in that car could be hauled in an ordinary spring wagon, such as those that deliver baggage about these streets.

Now, then, on the other hand, I go down here to the Pennsylvania station, going to New York——

Mr. MANN. The Government would not have lost very much if it had carried all those passengers and freight itself. [Laughter.]

Mr. PAYSON. No, sir; but yesterday, Mr. Mann, if you will pardon me for refreshing your recollection, when mention was made of the large number of lines in these sparsely settled regions that were doing a passenger business at a loss, you intimated sarcastically that they seemed to be running a sort of eleemosynary institution. I say to you, Mr. Mann, that it can be verified by every traffic agent that has looked into the matter and has run it down that there is not a line of road west of southern Mississippi and west of the Missouri River that operates to-day its passenger system except at a loss.

Mr. MANN. But they make it up——

Mr. PAYSON. They make it up out of their treasury.

Mr. MANN. They usually make it up out of the freight business, or else go into bankruptcy very speedily. Now, if the railroads have a right under the law to run passenger business at a loss and make it up out of the freight business, so that the road pays a profit out of the entire business, the question is whether Congress has not the right to say whether they shall make up a little more or a little less.

Mr. PAYSON. There is a better way of stating it than that, if you will pardon me—a better way by a great deal——

Mr. MANN. I have no doubt you can state it much better than I can.

Mr. PAYSON. No; I do not mean that. Anybody, almost, can say it better than I can; but the business as a whole must pay. Operating expenses and all others must be met by earnings, which must be reasonable for the rervice rendered; but when the passenger business is run at a loss it has to be paid for in some way. I say it comes out of the treasury. You say no, while I say yes, because there is no other way of paying a deficit in expenses except out of the treasury, and no money comes into the treasury except by freight and passenger traffic and mails and express—its transportation earnings.

Now, I am departing from what I had in mind when I started, but I am willing to be diverted. But that brings us to the suggestion made by Mr. Esch yesterday as to whether or not there is a distinction in the passenger traffic; whether it can not be limited by mileage, by some manipulation in some way of the freight business, because if it is paid and is a loss and has to come out of the earnings of the company, then might it not be that the earnings of the freight department are too high, because it is able to stand and does stand this sort of loss in making up the deficiency of the passenger traffic? The answer is perfectly clear. There has to be provision made in every great business transaction for some contingencies. Suppose some railroad station were burned. How is that paid for? If it is a freight house, which is used for nothing else but for freight, it is paid for out of the treasury. If this great union station now being erected north of us at an expenditure of $5,000,000 or $6,000,000 should be destroyed, the railroad company would not take it out of the passenger earnings to make up that loss or make it good, although it is solely related to passenger business, but the company would pay the loss out of its treasury, issue bonds, and build the station over again. That is the way it has to come, if I make myself understood.

But coming back to my illustration: here is my Phoenix road, and you are proposing by this bill to compel us for that 38 miles to carry a passenger for 76 cents. Now, on the other hand, I go down to the Pennsylvania Railroad station here, going to New York, and I see an express car, frequently two cars, filled full with express matter, the mail matter being hauled in there in trucks as large as loads of hay on the farm when I was a boy. I get into the train there. I have never seen less than 5 cars and often 8 or 9 cars, and in the last two weeks a number of trains of 10 cars, and every car forward of the Pullman car filled to the utmost capacity. The car in which I was seated was full, and in addition to the people occupying seats people were sitting on the ends of seats—children and young people—until some were unloaded at Baltimore. Between here and Philadelphia passengers were coming in and going out. At Philadelphia it filled up again, and when that train arrived at Jersey City it was as full as when it left Washington.

Now do you undertake to tell me, Mr. Chairman, that there is the slightest element of justice or fair dealing or decency in saying that the rate which applies to the Pennsylvania road (and you could see that situation every day when you go to that station) shall be applied to the thousands of miles of road of the clientage that I represent here?

Mr. ESCH. Ought we not to consider in that connection the increase taxes of these roads in the East, and the increased cost in that way?

Mr. PAYSON. Yes, undoubtedly. But these are all elements that

have to be considered; and to come down to what I intend to impress upon this committee, every tub ought to stand on its own bottom, and every particular case ought to be considered under the particular conditions that surround it. Let the garment fit the man instead of trying to make one uniform garment fit everybody.

Mr. BARTLETT. I do not want to interrupt you, but I do not want you to get away from the point you were on before, or lay down that book—I do not think you will find a decision where the Supreme Court decided that a rate forty per cent higher, as you state, was a reasonable rate.

Mr. PAYSON. I did not say that. I said the court held that a railroad rate in Nebraska 40 per cent higher than that charged for similar service in Iowa was not an unreasonable rate in the then conditions in Nebraska. That if conditions should change, a change in rate could be made.

Mr. BARTLETT. The decision directed the case to be left open to the Commission for their consideration thereafter.

Mr. PAYSON. Exactly, in case of change in conditions for the better. That leads up to what I am saying that every case must stand on the conditions that exist at the time the rate-making power exercises its power. If there should be a change in conditions then there should be a change in the rate; but there ought not to be any stronger argument for making a change in a rate if conditions change as to one road than if some dissimilarity existed as to two rates at the moment. Do I make myself clear?

Mr. BARTLETT. Yes.

Mr. PAYSON. I will come to that more fully later on. I will try to make it not only exhaustive, but I fear, wearisome. [Laughter.]

Another thing, I go from here to New York, and in going over that route I see practically every foot and every acre of ground between here and Jersey City producing something in the way of transportation—a line of country that is dotted every few miles with prosperous towns and manufacturing centers, every minute bearing evidence of something that will at sometime or other bear tribute to the railroad. May I say to you that upon hundreds of miles that I represent here, there never has been and never will be a dollar's worth of traffic or freight originating in the land over which the road runs; the railroad might just as well be on a bridge as on the earth. Take it in southern Arizona. Mile after mile, after Tucson is passed, until you get to the Yuma River, there is not a foot of earth that has ever produced anything or ever will produce anything. It is arid country. You can only use irrigating where the topography is such that the water will run over the soil. But down in that particular country it will not do that. Take it up in Nevada, and it is the same way. Mile after mile of railroad along the Central Pacific, and in western Utah the road as I said before concerning the line down in Arizona, might just as well be upon a bridge as upon the surface of the earth. And yet you tell me by these bills that that condition which must be taken into account as effecting the earning capacity of a property shall not be considered, and that you will impose upon us the same rate of 2 cents a mile as you do upon these great eastern roads.

Mr. ESCH. Ought we not to consider, in a comparison of the eastern with the western roads, the fact that the western roads have got land grants?

Mr. PAYSON. Yes; I know something about the land grants. There never was a more mistaken notion in the world than that the land grants to the Central and Southern Pacific roads have been very valuable, as convertible assets.

From Mohave to the Needles, on the Southern Pacific system, a branch line was built to connect with the Atlantic and Pacific roads, 267 miles, as I remember.

The Government claimed we were not entitled to land grants there. I went to Los Angeles to look into the matter in the courts, and availed myself of the courtesy of a gentleman connected with the Atchison, Topeka, and Santa Fe, who was down there on business connected with his company—the only time I enjoyed that luxury. I enjoyed the courtesy of that gentleman in a private car, and we struck this land grant that I referred to, which was in litigation. The mileage was about 267 miles. On one section of nearly 100 miles, between the Needles and Mohave, there were two stations. One was an abandoned box car, and the other was a building that probably cost $50. Not an acre of land in sight originating a dollar of railroad traffic there.

To my knowledge there has not since that time been a foot of ground utilized in sight of that section of road.

There, gentlemen, were the odd sections of land for 20 miles on either side of the road, and the soil was apparently as valueless for any useful purpose as the top of this table. We won out in the lawsuit. I met Mr. Huntington in New York some weeks afterwards, and I said to Mr. Huntington "This is a pretty expensive business. We have got the land, but what under the sun do you want that land for?" But he replied—and I use his own expression—"I do not know that it is worth anything, but it makes good security for bonds." [Laughter.] We have more than 15,000,000 acres of the grant to the Southern Pacific still unsold, and millions of acres along the Central Pacific unsold and unsalable at any price.

Away east of that there is some good country, and in that region the land grant is valuable. But, Mr. Esch, it should be remembered that the land grant was made to that road not for the purpose of enriching the men who did it—the men who built it—but for the purpose of offering a bounty to try to secure the investment of capital for the construction of the most expensive railroad ever constructed in this country. As to original construction, I am talking about the Central Pacific road.

Mr. ESCH. More expensive than the Great Northern?

Mr. PAYSON. Yes, sir. No road so expensive was ever constructed as that from Sacramento to east of the Rocky Mountains. What I say about this I know to be true. When that road was projected in 1862 the men at the head of it were the "Big Four"—Mark Hopkins, Leland Stanford, Charles Crocker, and Collis P. Huntington. All sorts of predictions were made as to the outcome by people who did not believe it could be done; people made predictions of the failure of that business. They could not enlist capital. They had some themselves, and they went on with an energy that will meet the admiration of the world everywhere when it comes to be written up.

Those men began the construction of that road at Sacramento, not at San Francisco. Every rail that was laid from five miles west of Ogden to Sacramento was carried from New York to San Francisco,

around Cape Horn; transshipped and loaded again and taken to Sacramento by water, unloaded and teamed from last landing there into the mountains. Every piece of machinery, every locomotive used in connection with the construction and operation of that road for some little time was bought in New York, assembled, taken down, white-leaded and oiled, packed again, and put on the ship and sailed around the Horn to San Francisco; again taken ashore and towed on a lighter to Sacramento, and there reassembled, and tried in its work. The material that went in there—spikes, and angle iron, and everything of that sort—was bought in New York, and bought at the prices that prevailed at that time.

I am glad you interrupted me in this direction. That was during the war of the rebellion.

Locomotive after locomotive was bought by Mr. Huntington in New York, as the purchasing agent, and paid for in gold at a premium of 200 per cent; locomotive after locomotive, freight car after freight car, tons and tons of railroad iron, at a time when the depreciation of paper money was so great that, in instances, it cost Mr. Huntington $220 for every $100 worth. Every railroad tie laid upon the ground by actual figures on the books of the finance company cost them over $2 a piece; and yet, when you talk about the question of the construction of that road, you want to look into that proposition to determine whether a 2-cent blanket rate is the proper thing. I am glad of the interruption, Mr. Esch.

The first grant to that road was made by Congress in 1862. It provided for a subsidy loan of Government securities of $8,000 a mile, until they got to the foothills; $16,000 a mile till they got to the mountains; $32,000 a mile for the divisions embracing the Sierra and Rocky Mountains.

Mr. ESCH. You are talking about the Central Pacific?

Mr. PAYSON. Entirely of the Central Pacific. That was the first thing that was offered.

Mr. LOVERING. Were they not racing at that time?

Mr. PAYSON. No, sir. That racing came later. I will come to that later on, if you regard it as material. That racing did not occur until 1867 and 1868. I am talking now about 1862, at the time Congress was acting. Mr. Huntington, than whom a greater man never lived as a transportation man, unless Mr. Hill may be a greater man—Mr. Huntington did the best he could to enlist the investment of capital. Charles Crocker also did his very best to insure the investment of capital, but nobody would touch it. They came to Congress, and in 1864 these subsidies were doubled. That is to say, they got $16,000 a mile at the level, $32,000 at the foothills, and $64,000 in the mountains, in the way of a subsidy. That, now, was a loan, not a gift, but simply a loan of the credit of the Government, for which the Government took a second mortgage on the property of the company.

Now we come to the land grant. It was originally a grant of alternate sections of land for ten miles on either side of the road. It was not profitable to anybody. If it had not been for the discovery of minerals it would be practically worthless to-day. All the benefit they got out of the grant for years and years was simply, coming back to the Mohave illustration, that it made a basis for the security of bonds. They have never made but little money out of it.

I am authorized to speak for the company in its land department,

and I will say to you you can buy it in 100,000-acre tracts at half a dollar an acre. We pay no taxes on it. What good is it? There is no benefit from it. No man can raise anything on it. You can not tell whether there is mineral on it or not until it is examined, developed, and exploited. The besom of destruction has swept over that country, and there it remains unchanged ever since. It remains simply as the security of bonds.

Now, as to the question of racing suggested by the gentleman from Massachusetts, Mr. Lovering, as a matter of history the Union Pacific, building from this side, was given the same bonus from the Government that we were receiving. The question was, Who should earn most of it? When they got west of the center of Nevada and were coming over to Utah, the construction was comparatively easy, and each road strove to get as many miles of construction as it could get in order to get the subsidy bonds of the Government and the benefit of the land grant. No point was determined, but the language of the act was "where the two roads should meet." The more mileage, the more subsidy. Mr. Huntington insisted that he had the right to go on and construct until he met the actual construction of the other road. The Union Pacific went on the other way and made their grading, and that grading shows there today, over 100 miles or so—two grades made, one occupied and the other not. That does not bear, however on this particular proposition.

Mr. LOVERING. It added to the expense some.

Mr. PAYSON. Yes, sir; but that was comparatively slight. The ground is comparatively level, and the grading is scarcely thrown up in any place over 3 or 4 feet high. I may say here that all this subsidy debt from the Union Pacific and Central Pacific has been arranged and without loss of a dollar to the Government.

Now, then, I say, Mr. Chairman, to undertake to fix a blanket rate of 2 cents per mile under these diversified conditions of things is absolutely and utterly absurd. If I should hazard a guess about it, I should say there is not a man on this committee, sitting down in quiet conversation, as one man talks to another, who would say to me that he thought there was the least element of justice and propriety in it. I should say that, but I can not, of course, tell what may be in the minds of the committee.

Another thing that always must be taken into account with reference to this matter of determining what is a reasonable rate, is the question of density of population.

The CHAIRMAN. The hour for adjournment has arrived.

Mr. SHERMAN. Mr. Chairman, may I ask Judge Payson how much more time his argument will consume, as he has it in mind?

Mr. PAYSON. To cover the ground as I want it I shall need thirty minutes longer, I should say.

Mr. SHERMAN. The reason why I inquire is that several gentlemen are here who are very anxious to get away, and it occurs to me, if it would not disconcert you or break up your argument, that some of these gentlemen who want to hurry away might be given an opportunity to be heard first.

Mr. PAYSON. It will not incommode me at all. When I come again I can resume on the question of density of population and on the rate-making power. Any other gentleman, meanwhile, can occupy the floor, and I will be gratified to return at your pleasure.

Mr. SHERMAN. Can you settle it between yourselves during the recess?

Mr. PAYSON. Yes; but I need not be a party to that arrangement. I am perfectly willing to give way to anybody and everybody, for I am like the poor—you "have me with you always," and I hope it will be that way for a good many years.

Mr. SHERMAN. Mr. Chairman, as the general debate on the military bill will be concluded by 2 o'clock this afternoon, as I understand, many members of the committee may desire to be on the floor then when the bill is considered under the five-minute rule, and I therefore suggest that perhaps the committee may want to take a recess until half past 10 to-morrow morning.

The CHAIRMAN. It has been suggested that the committee take a recess until half past 10 to-morrow. Without objection, it is so ordered.

(Thereupon, at 12 o'clock, noon, a recess was taken until 10.30 o'clock to-morrow morning, Thursday, January 10, 1907.)

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
HOUSE OF REPRESENTATIVES,
Washington, D. C., Thursday, January 10, 1907.

The committee this day met at 10.30 o'clock a. m., Hon. William P. Hepburn in the chair.

The CHAIRMAN. The committee will be in order. Senator, have you anyone to introduce?

Mr. FAULKNER. Yes, sir; Mr. Harrison is here, representing the Louisville and Nashville Railroad.

The CHAIRMAN. We will be glad to hear from you, if you please. Our audience is small now, but it will be larger later on, and whatever you say will appear in print.

STATEMENT OF MR. T. B. HARRISON, JR., OF LOUISVILLE, KY., COUNSEL FOR THE LOUISVILLE AND NASHVILLE RAILROAD.

Mr. HARRISON. Mr. Chairman and gentlemen, at the outset I would like to apologize for appearing before you somewhat ill-prepared.

Mr. ESCH. Whom do you represent?

Mr. HARRISON. I am attorney for the Louisville and Nashville Railroad. On account of moving our office building recently I had difficulty in getting access to my papers and figures. I expected to work them up on the way up here, but before I got here I found I had lost my glasses, and they could not be replaced, and so I have not been able to work up my figures as well as I wished. The figures are in such shape that nobody else could work them up.

And I understand, Mr. Chairman, the bills before the Committee are three in number, and while heretofore the remarks of preceding speakers have been directed principally to the bill, to what is known as the Sherman bill, I rather assume that the Committee will look at all three of these bills before making up its mind, and if it reports any bill at all it will probably report not one of the three, but rather a composite, made up of parts of all three, if it sees fit in its wisdom, or a new bill with entirely new features.

However, in order that I may have a clear understanding of what we are discussing, I will take the liberty of reading a short statement showing the substance of the three bills pending before the Committee.

The first bill, H. R. 20153, requires all railroad companies engaged in interstate commerce to sell 2-cent mileage books at all ticket offices; the books to be good for transportation and the checking of baggage upon any railroad in the United States, and unlimited as to time of use, and good upon any train, and redeemable at any ticket office of any railroad company in the United States. Punishment for each violation is a fine in any amount not to exceed ten thousand dollars.

H. R. 21572 makes it unlawful for a railway company engaged in interstate commerce to receive more than 2 cents per mile for interstate passenger fares, and makes it the duty of the company to keep constantly on sale tickets and mileage at 2 cents per mile, and failing to do so, it must not charge passengers over 2 cents per mile cash fare.

It makes it the duty of every railway company to sell tickets or mileage books good upon any railroad engaged in interstate commerce; the tickets or mileage books to be unlimited as to time of use, and redeemable at cost by the company which issued it; violation to be punished by fine of not exceeding $10,000, or imprisonment for not exceeding three years for any offense; the director, servant, or agent found guilty, and the railroad company found guilty, to be fined not exceeding $10,000.

H. R. 22133 requires, after July 1, 1907, all railway companies engaged in interstate commerce to issue and sell at all passenger stations tickets and mileage coupons at a uniform rate of 2 cents per mile, to be good in the hands of any holder for transportation and for checking of baggage, and unlimited as to the time of use; not to be restricted in passage on any passenger train; to be redeemable upon presentation at any ticket office of the company issuing them, and no extra fare above the payment of 2 cents per mile shall be collected; violation to be construed as a misdemeanor, and upon conviction the officers, directors, or agents of any railroad company so convicted to be fined not exceeding $10,000 dollars. By section 2 the Interstate Commerce Commission is empowered to suspend the operation of the act under certain circumstances.

Those, gentlemen, are the three bills which are pending before your committee. The three bills are similar, and the result of the enactment of any one of them would be to reduce all rates, both State and interstate, to 2 cents per mile.

I submit, gentlemen, that it would be unwise and unfair to make the same rate for every road in the country without taking into account the circumstances and conditions, which vary greatly in different parts of the country, and even on different roads in the same territory.

The CHAIRMAN. Have you H. R. 22130?

Mr. HARRISON. I have H. R. 20153, sir, and H. R. 22133 and H. R. 21572. Those are the only ones I was advised referred to this subject.

The CHAIRMAN. You are right.

Mr. HARRISON. While there has been a good deal of discussion in the testimony thus far taken before the committee as to the power of Congress to enact this, that, or the other bill, and as to what effect the enactment of the so-called Sherman bill would have, I think the question before this committee is a broader question than one that simply

involves the power of Congress to enact the bill. In other words, I think that the railroad people ought to come here and reason with the committee on broader lines than that, if we can—not, of course, criticising any gentleman who has testified before me.

The question to my mind is whether Congress will enact a bill requiring the interstate railroads of this country to carry a passenger at 2 cents a mile. Whether or not you have the right to do that, I assume that you believe that it is a fair proposition and that the railroad companies of this country can stand 2 cents a mile. But I feel sure that if it is proved to you gentlemen that they can not stand it, you will not enact it. Therefore, in the few suggestions I will make to the committee, I will take the liberty not to discuss the law of the case at all, but simply address myself to the proposition as to whether the railroads, particularly the southern railroads, can stand a 2-cent rate.

While of course either one of these bills, or any bill that might be suggested to Congress or recommended to Congress by this committee and passed, would technically affect only interstate commerce, yet practically it would affect all commerce, both interstate and State, and make an absolute flat rate for the company I represent and all other railroads of 2 cents a mile. It would be practically impossible to undertake to charge an interstate passenger 2 cents a mile and to charge a State passenger more.

It is our practice in making our rates to make them uniform, as far as we can, and, everything else being equal, to make them the same in all the States through which we run, both freight and passenger rates. Our rates are based upon a uniform scale, departed from by exceptions as circumstances and conditions requiring a departure arise—as, for example, when a State commission makes a rate to us, that is, a freight rate, we always apply that rate to interstate business. Some roads have a method of carrying an interstate rate and a local rate. If a commission establishes a rate on their business that would lower either the State or the interstate rates, they apply the same rate.

We apply the local State rates to our interstate business as well as to the State business. If the State, for instance, of Kentucky should pass a 2-cent rate, we would have to apply that to our interstate business, just as we would have to apply any rate passed by Congress to our State business.

I want to suggest also to the committee that there is quite a difference between passenger rates and freight rates. In all rate making affairs it occurs to me that there are three parties which should be considered: First, the public as a whole; second, the railroad company, and, third, the individual dealing with it. It is to the interest of the public as a whole that the rate should be fair both to the railroad and to the public. It is to the interest of the public that the railroad company should prosper. It is also to the interest of the public that the man dealing with the railroad company should have a fair rate. Consequently three parties are interested—the public, the company, and the parties dealing with the railroad. That will be seen to be true because all the railroad company has to sell is transportation, and all the way it has to get any money in order to make the improvements which it is called upon to make and to carry on its business is from its patrons.

Last year on the Louisville and Nashville system the passenger earnings were $10,868,150.53.

Mr. CUSHMAN. What system is that?

Mr. HARRISON. The Louisville and Nashville. The best estimate we have been able to make as to the cost of those earnings is $7,673,433.37, making an expense ratio to the earnings of a little over 70 per cent. That expense ratio is arrived at by following the formula laid down by the Interstate Commerce Commission when they required a separation of the passenger and freight earnings. The Interstate Commerce Commission itself, as well as many of the principal railroads in the United States, has found it impracticable, practically impossible, to separate the passenger and freight earnings, and has quit requiring it, but our railroad has kept it up, and keeps the data on the basis of the formula required by the Interstate Commerce Commission when that Commission kept up the division.

From the best estimate we have been able to make the proposed bill would reduce the passenger earnings of the Louisville and Nashville, based on the earnings of the past year, $2,211,674.23. That would be the actual reduction brought about by reducing its passenger rates to two cents a mile, while at the same time it would not reduce the expenses in any way.

Mr. CUSHMAN. How many miles of road are there on the Louisville and Nashville?

Mr. HARRISON. A little over four thousand. I have the exact operating mileage here of last year. For the year ending June 30, 1906, the operating mileage was 4,130.91.

Mr. CUSHMAN. And you figure that the amount of reduction on that mileage, if this 2-cent rate should go into operation, would be over $2,000,000?

Mr. HARRISON. The information given by our auditor was $2,211,674.23.

Mr. ESCH. Do you know how he arrived at that?

Mr. HARRISON. No, sir. I simply asked him for figures showing the reduction. Frankly, I will say to the Committee it is a rough estimate, but a conservative estimate. He figured it would reduce our passenger earnings 22½ per cent.

Mr. STEVENS. You do not know if that makes allowance for increased traffic?

Mr. HARRISON. No, sir; nor does it make allowance for the increased traffic that would be brought about by the reduction of excursion rates, if they should be reduced, and it is our opinion that the excursion rates would necessarily be reduced. For instance, like other railroads, we have a rate every Sunday of one and one-third fare to towns which you can go and come back during a day. People go that way and visit each other on Sunday. It is our opinion that that rate would be reduced.

If the ticket costs them $1.50 straight fare, they can go to that place and back on Sunday for $2. If that rate is reduced, say, a dollar by that bill, in order to take care of that traffic we would have to reduce the excursion rate. We give excursion rates to public fairs and meetings and conventions at one and one-third fare. If you make a mileage basis such as that to a very large meeting like the G. A. R. convention, or the Confederate Veterans, or the St. Louis Exposition, we would make a rate of 1 cent a mile; but where the rate is based on a straight ticket rate it is our opinion that that would be reduced,

and would make a larger reduction than the figures I have given, unless they should be withdrawn, which is not at all likely.

The CHAIRMAN. I was going to ask you if it would result in reducing the rates or reducing the service?

Mr. HARRISON. I am not a passenger man, but it seems to me they would have to go on and try to increase the business in some way to make up for this reduction, and therefore they would not want to take out these rates, these excursion rates, because a great many people who use these rates travel on the usual trains, which is just that much money made which would not be made if we did not have the rates in.

Mr. ESCH. Is it not a fact that the excursion business multiplies the patronage?

Mr. HARRISON. Yes. We read an advertisement in the newspaper, for instance, to use a common illustration, of Manhattan shirts that sell for $1 or $2 or $2.50 reduced in the spring, and I go down and buy one that is sold for $1.50 in the summer because in the fall I buy me my next summer's supply. A man reads in a paper that he can ride, for instance, to a certain point at a very cheap and unusual rate, and in consequence he gets on a train and goes. But the reduction of the rate to a great extent would not exceed the great majority of travel, because people who travel now travel either for pleasure or profit, and the regular travel, we believe, would not be increased to a large extent. It has been estimated on some of the Western roads that 50 per cent of the travel, say on the Santa Fe, for example, is pleasure travel, 10 per cent for health, and the rest miscellaneous.

Now on this general subject, gentlemen, I have not been able to make up the figures as I wanted them, but I wish to make a suggestion; that everything that enters into the cost of road operation has increased very largely of late years, just as things have done that enter into a man's life, clothing and food and everything. Everything that enters into the train service has increased largely.

The CHAIRMAN. Before you leave this subject that you have just been discussing, I would like to ask you to what extent your passenger traffic could be increased without in any way increasing your operating expenses? In other words, what proportion of your present facilities for passenger traffic is used?

Mr. HARRISON. So far as engines and cars are concerned, especially so far as cars are concerned, our passenger traffic could be increased very largely without increase of cars.

Mr. ESCH. Or motive power?

Mr. HARRISON. I do not know as to motive power, because we have been quite hard up for motive power in recent years, although our equipment has lately increased nearly 100 per cent.

The CHAIRMAN. What proportion of your passenger cars are used now by the traveling public?

Mr. HARRISON. For the year ending June 30, 1905, we had an average of cars on a train of 4.91. For the year ending June 30, 1906, we had 4.67. Now the number of passengers carried in each train for the year ending June 30, 1905, was 46.84.

The CHAIRMAN. To the train?

Mr. HARRISON. Yes. Now the number of passengers carried to the car for the year ending June 30, 1905, was 13.12.

The CHAIRMAN. What was the capacity of those cars?

Mr. HARRISON. I should say 60. Now the number of passengers carried per train in the year ending June 30, 1906, was 41.09. The number of passengers carried in each car was 12.28 or about 13.

The CHAIRMAN. With the number of cars that you have given in a train what would be the weight, probably, of that train?

Mr. HARRISON. That would be right hard to estimate, Mr. Chairman. You mean the weight of the train without the passengers, or with the passengers?

The CHAIRMAN. No, as you carry it; and then I want to ask you what would be the capacity of that engine?

Mr. HARRISON. The capacity of that engine would be nearly always sufficient, unless in the case of heavy grades, to carry the train pretty fully loaded.

Mr. CUSHMAN. What is the weight of an ordinary passenger coach?

Mr. HARRISON. I do not know, sir.

Mr. ADAMSON. If all these cars should have the seats full, would the same engine you now use be sufficient to carry them?

Mr. HARRISON. I think so, except in the case of heavy grades.

Mr. ADAMSON. Would it be possible to have three or four times as many passengers without increasing the motive power or the capacity of the engine?

Mr. HARRISON. Yes, if we had them. The only time we can fill them is by excursion rates. Ordinary travel will not fill them.

I started out to say that I think the Committee ought to take into consideration the increased expenses.

The CHAIRMAN. You say you could carry three or four times as many passengers as you now do, but you have not got them. Assuming that your rate to-day is 3 cents a mile, suppose you reduce the rate to one and one-half cents a mile: Would you probably double the number of passengers carried?

Mr. HARRISON. I think not, sir.

The CHAIRMAN. If you did double the number of passengers, would the result in receipts and expenditures be the same for the carrying?

Mr. HARRISON. The result in expenditures and receipts at half the rate and double the number of passengers would be approximately exactly the same.

Now, to show the effect on regular traffic that a reduction of rate has, our maximum rates are 3 cents a mile, except in Florida on a division built and operated under a separate charter, and it does not pay operating expenses, and there it is 4 cents. Now we sell a mileage book at 2½ cents a mile, which is good on every division on the Louisville & Nashville Railroad, even on a division where 4 cents is charged, with the exception of two small roads which we operate on account of the owners and from which they get the profit. That is a reduction from the regular rate of 20 per cent. You would think that the regular travel would to a large extent take advantage of a reduction of 20 per cent, and yet our mileage books represent only 7 per cent of our passenger earnings, showing that the reduction of the rate does not have any material effect.

Mr. ESCH. Is that 2½ cents in a thousand?

Mr. HARRISON. Yes.

Mr. RICHARDSON. Can you not make an estimate of the number of passengers based upon the population?

Mr. HARRISON. I have those figures here of the number we carry in a year.

Mr. RICHARDSON. Can you not make an estimate of the number you carry, based upon the population along the line through which your road passes?

Mr. HARRISON. That, in the nature of the case, would not be correct. I might make an estimate based on the increase of 1906 over 1905. Practically all that increase, however, was on account of increased mileage. I have it here. In 1905 the length of mileage operated by the Louisville and Nashville Railroad Company—and in speaking of the year 1905 I always mean the year ending June 30—the length of mileage at that time was 3,826.31. That mileage had increased for the year 1906 to 4,130.91. Now the number of passengers carried in 1905 was 9,718,705. The number of passengers carried in 1906 was 10,666,500, an increase of a little over a million in the number of passengers. Now, the passenger earnings, or rather the earnings from passenger trains, including some express, baggage, and so forth, in 1905 were $10,386,044.71, while in 1906 they were $10,868,150.53, an increase of about $500,000. But there was an increase of mileage of over 200 miles.

Now, the earnings per mile of road in 1905 were $2,714.38. In 1906 they were $2,690.93, a decrease of little over 3 per cent; while the expenses per mile of road in 1905 were $1,645.16, and the expenses per mile of road in 1906 were $1,857.56, an increase of over 13 per cent in expenses.

The CHAIRMAN. Was the mileage the same during this year?

Mr. HARRISON. No, sir. In 1906 there was a little over 200 miles of additional road. We opened up a road between Knoxville and Atlanta.

Mr. MANN. How do the percentage of the increase of road and the increase of traffic compare?

Mr. HARRISON. I think the principal increase of traffic, the total increase of traffic, was because of the increase of the mileage of road; but when you spread it over the whole mileage operated in 1906 it shows a decrease of percentage per mile.

Mr. MANN. It shows a decrease in percentage?

Mr. HARRISON. Yes, sir. In other words, you have $2,714 earnings per mile in 1905, and $2,690 earnings per mile in 1906, while the increase of mileage was 7 per cent and the increase of expenses was 13 per cent.

Mr. MANN. The increase in receipts is what I had in mind.

Mr. HARRISON. The increase in receipts was 4.64 per cent.

Mr. RYAN. That is in the passenger business alone?

Mr. HARRISON. That is the earnings from passenger trains. That includes express, mail, and things of that kind. Those are not the figures that are used in arriving at this deduction. The figures used in arriving at this deduction are $8,831,000. Baggage is taken out. Our report shows just earnings from passenger trains.

As I started to suggest awhile ago, gentlemen, the increase of expenses in every thing that enters into the operation of a road——

Mr. STEVENS. Before you come to that I would like to ask you a question. Your expense account includes losses by accidents and casualties, I presume?

Mr. HARRISON. Yes; and I might say in that connection I have had

a great deal of experience in that line, having settled personal injury claims for a great many years. While the passenger earnings of our road are only about 25 per cent of the total earnings, our injury claims are over 50 per cent.

Mr. STEVENS. Would the number of accidents increase in the same proportion if your business were doubled?

Mr. HARRISON. I should say so. The number of claims is increasing all the time.

Mr. STEVENS. Suppose your passenger traffic is doubled or the mileage increased, what allowance would you naturally make for accidents or claim expenses?

Mr. HARRISON. The only way we can arrange matters of that kind is to see how much we pay up in a year and charge it up at the end of the year. We can not tell exactly what will happen in a year. We can judge only by what happened the year before. Our personal injury claims last year, according to my recollection, were something like $250,000. That is not a large sum when you come to look at the earnings of the company, but over 50 per cent of this was because of the operation of the passenger trains, while only about 22 per cent of the earnings came from the passenger service.

Mr. STEVENS. Suppose you would have practically the same earnings, doubling the number of passengers, would the loss by accident increase in the same proportion?

Mr. HARRISON. It would, perhaps, and I take it we might have a very bad wreck. We have been fortunate in not having serious passenger wrecks for several years past.

Mr. ESCH. A certain proportion of those injury claims are by freight wrecks, are they not?

Mr. HARRISON. Yes; but more people are hit by passenger than by freight trains. You would have no idea, unless you had experience in that line—as some of you gentlemen may have—how many are injured by the stopping and starting of trains; how many people turn up with a lame back, who were standing in the middle of the aisle ready to sit down and the train started suddenly, and they sat down very suddenly—more suddenly than they expected. I have a case in mind now where a judgment of $10,000 was rendered against us for a case of that kind, but finally we reversed the judgment, although it cost us about $6,000.

Then we had a case in a sleeping car, where there was nobody in the sleeper but the porter and the passenger, and the porter came in and the passenger had fainted. He testified he was standing up in the aisle when a sudden jerk jarred him and he fell down. He got a very large judgment against us.

Mr. RICHARDSON. And you got it reversed?

Mr. HARRISON. No, sir. That particular one we had to pay.

Mr. RICHARDSON. What is the policy of the Louisville and Nashville in a case of this kind? The line is constructed through a sparsely-settled country, with little freight, and it is done, is it not, for the purpose of improving and developing that section of country—that is, getting sufficient freight and traffic to justify the investment?

Mr. HARRISON. Yes, sir.

Mr. RICHARDSON. Do you pay that, or go to another part of your freight or passenger business and increase the charges?

Mr. HARRISON. Our policy has always been, as I suggested a wh le

ago, to have a uniform rate as far as we can. Our freight rates are based on what we call our uniform mileage scale. A man in Alabama, or Kentucky, or Tennessee, or anywhere else along the line of the Louisville and Nashville Railroad, who transports his freight 100 miles gets the same rate, and it is our idea and our policy to make the passenger rates the same way.

Now and then it is true we depart from that scale. You can not have a rigid rule in railroading any more than in individual life. We may have river competition; we may have competition with other railroads; and we often have competition of products and markets—more of that than anything else. We have to do that in the Birmingham district. I suppose we have handled more traffic in that district than any other road.

Mr. RICHARDSON. You have established a great many branch roads in that Birmingham district, have you not?

Mr. HARRISON. Yes. We put on those roads our regular scale, and on every one of those branches you will find the same scale in effect, unless it has been departed from in cases where it is necessary to carry a product and the manufactured product out to these various industries in other parts of the country.

Now, continuing the answer to your question, Mr. Richardson, we built a line in Eastern Kentucky a few years ago where there are inexhaustible coal fields that were never touched before. That line was built from Corbin, Ky., to Norton, Va. It cost $46,000 a mile, actual figures, to build. We put on that line the same freight scale as on the other lines. But we put on a 4-cent passenger rate. Only in the last two or three years has that road been making any money, but we put the 3-cent scale, passenger rate, on that road a few years ago.

Mr. RICHARDSON. Can you give me any estimate of the increase of population in the Birmingham district since the Louisville and Nashville has been building branches out in that coal land and developing that section?

Mr. HARRISON. I guess it has doubled, at least. The railroads and the people down there are both prospering together.

Mr. ADAMSON. Along that line of discussion I want to ask you about this instance: If a particular market uses a particular commodity, that is, it is a market sought for in a particular commodity, and an emergency arises on your line for that commodity, what do you do?

Mr. HARRISON. We put ourselves right in line with them.

Mr. ADAMSON. Although it might be a good deal further?

Mr. HARRISON. Yes, sir. In other words, we carry coke from Apalachia and Stonega, Va., to Birmingham, Ala., at a very low rate in order to let the ovens on our Virginia line do business; in order to let them get rid of their coke and coal. It is about 600 miles.

Mr. LOVERING. By the way, in that connection, have you suffered from the car famine this year?

Mr. HARRISON. To some extent we have. We are better equipped in that respect than most of the other roads. We have increased our equipment in the last year 100 per cent. We are not turning out an engine every two weeks and 30 cars a day.

Mr. LOVERING. Yours is a large cotton road?

Mr. HARRISON. Yes, sir, we are, pretty much; but cotton is not our biggest product.

Mr. RICHARDSON. How many cars do you turn out in a day at the Decatur Works?

Mr. HARRISON. I think it is fifteen.

Mr. RICHARDSON. Do you know what the pay roll is in the shops at Louisville?

Mr. HARRISON. I think it is a little over $150,000 a month, and the Decatur is about two-thirds or three-fourths the size of the Louisville shop.

Mr. RICHARDSON. That shop has been located at Decatur in the last few years?

Mr. HARRISON. Yes; it has been located at Decatur for about ten years. It has been operated in full capacity for about six years. We have at Louisville one of the most modern shops in the country, and we are turning out engines very rapidly there.

Mr. RICHARDSON. Was any inducement given by the people at Decatur to locate the shops there?

Mr. HARRISON. I think perhaps the Decatur Land Company, that was at that time exploiting Decatur, probably gave them ground. I am not sure of that, however.

Mr. RICHARDSON. They manifested their desire to have the shops there?

Mr. HARRISON. Yes. Any town would be anxious to have a big concern like that, which pays big wages and employs six thousand hands, no matter what the size of the town may be.

Now, as to the increase of expenses, I had a statement made up some time ago—made up about this time last year. I wanted to bring it down to date, but have not been able to do so. It shows that in the last five years, back of 1906, the Louisville and Nashville had increased wages and salaries of its officers and employees, and especially the wages of its employees, 20 per cent over what they were formerly. The statement also showed that up to 1906, compared with the previous five years, there was an average increase in the cost of everything that usually is bought by our purchasing department of 20 per cent; everything used in the manufacture of cars, and the operation of a road, and in the building of a road. The average increase was 20 per cent. Some things were increased over that and some things less. In the last five years lumber has increased 40 or 50 per cent, and in the last two years there has been another increase in some kinds of lumber; for instance, car sills, of 100 per cent, or nearly 100 per cent. Our general manager told me the other day he was paying $42 for car sills that two or three years ago he was paying $25 for.

Mr. BARTLETT. That is due, is it not, to the scarcity of that kind of timber?

Mr. HARRISON. Yes, sir. You gentlemen who live in Alabama and Georgia know, perhaps, that ten or fifteen years ago that timber land down there was going begging at $10 an acre. Now it is selling at from $15 to $25 an acre.

Mr. RICHARDSON. Yes. I have some knowledge of lands having been sold for much less than $10 an acre down there that have recently greatly enhanced in price and value.

Mr. HARRISON. I was the owner of a tract at Lavilla which sold for $15 an acre three years ago, and the manager told me the other day he would not take $30 for it now.

Mr. RICHARDSON. In that connection, have you heard anybody com-

plain down in that section of country that the 3-cent passenger rate is two high?

Mr. HARRISON. We have some complaints in Alabama. Mr. Comer seems to think that rate is too high.

Mr. RICHARDSON. That was incidental to the campaign.

Mr. HARRISON. The only complaint has been of freight rates; the only definite complaints have been as to freight rates, and those have been on account of adjustments and not as to the rates themselves.

Mr. RICHARDSON. You mentioned the late Alabama campaign. The complaint there was about a difference in freight charges. The passenger question, so far as I know, was not mentioned. I have never heard it mentioned.

Mr. HARRISON. Perhaps it has come up lately, perhaps in a message written to the legislature, or a statement in the newspapers to the effect that a change will be demanded.

Mr. BARTLETT. In the Georgia campaign the mileage tickets were agitated in the beginning, but the agitation did not seem to awake as much of a response as the other, the freight rate question, and later on nothing was said about it; and during the campaign the railroads of their own motion did grant interchangeable mileage tickets on the railroads of Georgia.

Mr. HARRISON. We have so little mileage in Georgia that I do not know much about that, but I know that for several years we have had interchangeable mileage books, practically good all over the South, at 2½ cents per mile. The railroad having perhaps the greatest mileage down there was disinclined to come in, probably because it was not to its advantage, but I think it has come in.

Mr. RYAN. What has been the average increase in the last five years, when you say your earnings have increased 25 per cent?

Mr. HARRISON. The net earnings have decreased.

Mr. BARTLETT. You own the Chattanooga Railroad?

Mr. HARRISON. The Louisville and Nashville owns the Chattanooga Railroad.

Mr. BARTLETT. Do you not control the Georgia Railroad?

Mr. HARRISON. The Atlantic Coast Line leased the Georgia Railroad, but the operation I speak of does not include either of those. They own the stock of the Chattanooga, and they own the lease of the Georgia Railroad; and of course whatever profit is derived from the operation of the Georgia Railroad, they get half of it. In the last four years there has been some profit. Before that there was a continual loss.

Mr. RICHARDSON. In order that you may have a fair impression respecting the condition in Alabama, I will say that Governor-elect Comer is to be inaugurated in a few days, and all railroads leading to Montgomery, the State capital, have offered to haul free of charge the troops or companies of militia that will participate in the inauguration ceremonies, and also haul at reduced rates people desiring to witness those ceremonies. This would indicate that the railroads are well disposed towards Governor-elect Comer.

Mr. HARRISON. I only knew of their campaign from reading of it in the newspapers—mostly in the Courier-Journal. With all our faults we railroad people try to be public spirited in every State we run through. We carry people to military encampments and patriotic gatherings.

Mr. ESCH. Do you manufacture rails in Birmingham?

Mr. HARRISON. Yes, sir.

Mr. ESCH. Do you know if there has been an appreciable increase in the cost of rails in the last few years?

Mr. HARRISON. They went down and then they went up again. My impression is that rails cost more than they did eight or ten years ago, but not as much as they did many years ago.

Mr. ESCH. They have really been quite constant in price for the last six or eight years?

Mr. HARRISON. Yes, sir.

Mr. ESCH. So that that would not be much of a factor in increasing the cost of materials?

Mr. HARRISON. No; except that the railroads find it necessary to have heavier rails than formerly. Whereas they used to lay 60-pound rails, they now lay 80 or 90 pound rails. The price of ties has doubled in the last few years on account of the scarcity of the timber; that is a large item.

Mr. ESCH. Do you treat your ties by creosoting?

Mr. HARRISON. Yes; but I referred to the price in the woods to the men who get them out. We are experimenting in the raising of ties where we have a little extra land, and we are planting walnut trees and catalpa trees there.

Mr. ESCH. They are rapid growers?

Mr. HARRISON. Yes, sir.

Mr. RICHARDSON. Where the density of population and traffic increases the rates decrease?

Mr. HARRISON. We claim that, and I think we can show it. I admit frankly that the passenger rates have not been decreased as much as the freight rates; but, as I tried to suggest to the committee, the passenger rates bear upon an individual or community differently from a freight rate. A discriminating freight rate affects a community seriously, because everything that goes in or comes out of that community, everything that a man eats or uses, pays tribute to that freight rate, whereas in the case of a passenger rate it is a matter of individualism.

Mr. LOVERING. About how many classes of tickets have you?

Mr. HARRISON. Generally our tickets are car tickets. We sell mileage books and round-trip tickets also.

Mr. LOVERING. Have you quarterly or annual passes?

Mr. HARRISON. We have been issuing a good many annual passes, and time passes, and things of that kind. Then we also sell in the few cities where they are called for, where there are outlying suburbs, commutation tickets and school tickets. We sell those all over the system, monthly tickets, business tickets, and family tickets, and they are very much less than 2 cents a mile.

Mr. LOVERING. When you gave the number, fifteen passengers per car, that includes all classes and deadheads?

Mr. HARRISON. Yes, and commuters. Around Louisville we have a good many, and some along the coast and around New Orleans, and also around Nashville; but as a general rule we have not the kind of county population around our cities that uses commutation tickets to a great extent. Like the other roads in the South and the country, we are continually called upon both by the needs of the company and the demands of the public and by legislation to furnish more modern a d

better appliances for the hauling of freight and passenger service. We are now engaged in double tracking some portions of the road. We are also engaged in putting in block-signals. There has been no legislation requiring us to do so, but the intention is as soon as practicable and as soon as the money can be furnished to cover the whole road with block-signals. But we are now first taking spots that seem to need it most, and we are double tracking in those places. Those things cost millions of dollars, and the money must come from somewhere.

Mr. RICHARDSON. Where do you contemplate double tracking?

Mr. HARRISON. Down near Birmingham, and also from Decatur to Montgomery.

Mr. RICHARDSON. Is it not true that you are contemplating the building of new lines this year?

Mr. HARRISON. We are completing some new lines and building some branches. We are opening up one in Kentucky as a feeder to our other lines, and lately we have opened one from Knoxville to Atlanta, and that gives to the Atlanta and Georgia country the advantage of what is known as the Jellico coal fields.

Mr. RICHARDSON. How many miles of trackage do you contemplate that the Louisville and Nashville will construct between Louisville and New Orleans in the coming year?

Mr. HARRISON. I do not know, but perhaps two hundred miles.

Mr. ADAMSON. Do you contemplate getting all or any part of the money you need for making these improvements by issuing 5,000-mile books, unlimited? What class of people would use those books—the people who now use the regular trains?

Mr. HARRISON. I think people who travel a good deal, who could afford it. The man who took only an occasional trip, and the man you get your money from, would not buy them. Our present mileage book gives a 20 per cent reduction on the ticket rates, and only about 7 per cent of our passenger traffic comes from mileage books.

Mr. ADAMSON. The casual traveler would not buy them?

Mr. HARRISON. No; it would be just as it is here in Washington. The casual traveler in Washington on a street car usually pays money instead of buying tickets. I was riding in a street car the other day and the conductor said, "Tickets?" I did not know what he meant at first. I never have bought tickets since I have been in Washington.

Mr. MANN. I advise you to do so. It is pretty economical.

Mr. HARRISON. I do not get here very often. Once in Detroit I bought six or eight tickets, and lost three of them, so that I was out by the trade. [Laughter.]

Mr. MANN. You do not mean that a 5,000 mileage book substituting 2 cents for 3 cents would be issued by your company in the near future?

Mr. HARRISON. No, sir; I do not think so.

Mr. ADAMSON. One good way to avoid legislation is to do something voluntarily yourself.

Mr. HARRISON. I have seen instances where that sort of thing has given rise to legislation, worse legislation, in the State.

Mr. RYAN. Would there be any objection by those who use them?

Mr. HARRISON. I suppose the drummers would.

Mr. RYAN. In fact there is never a demand for an increase of rates?

Mr. HARRISON. No, sir; but there is always a demand for a decrease in everything, and never for an increase. The only demand we have for

an increase is for an increase in wages. [Laughter.] Some of us are demanding increases of wages and do not get it, but the fellows that are organized get it. We have practically increased the wages of the shop men all through.

Mr. RICHARDSON. I have seen the complaint made, and perhaps it has some foundation, that where you increase the wages of the operatives and where they had to rent houses the owners correspondingly raised the rents on them.

Mr. HARRISON. Yes; everything has increased in the last few years. I know that personally. I keep house, and I figure that it costs me about 30 per cent more than it did five years ago. It may be because I am living perhaps a little better, but I do not see it.

Mr. BARTLETT. You are not alone in that.

Mr. HARRISON. No, sir.

Mr. MANN. I think there are at least three members of this committee who think our salaries are not too much. [Laughter.]

Mr. ADAMSON. Some of us did not want any more, and did not want to intimate or admit that others were worth any more than we.

Mr. RICHARDSON. Another reason is that the hotel keepers would get whatever increase we got. [Laughter.]

Mr. HARRISON. They would in Washington. The traveling man will admit that the smallest item of expense in traveling is the railroad fare. I know that to be a fact myself. If a man travels regularly the railroad fare is the smallest part of his expenses.

If a suggestion from me is in order, I think Congress ought to look carefully into all these matters, because if an evil or wrong is done there is no way to remedy it, and passenger fares, collected here and there from individuals in many cases do not affect the men injuriously who pay them, while a reduction of fares would injuriously affect the company that pays that aggregate expense. Your bill will not provide that the Government will guarantee the amount of business that will be necessary in order to get that money back, and it is not going to guarantee, as the Illinois Central has lately agreed to do, to pay a largely increased rate of wages to the operators, engineers, firemen, and others over last year.

Mr. MANN. I remember when the regular rate of fare on most of the Illinois roads was 5 cents. Under an act of the legislature of Illinois and a commission the rate was reduced to 3 cents and they claimed that it would break them up. I have no doubt they would all admit now that it was the best thing that ever happened to them.

Mr. ADAMSON. The first ticket I ever bought was 6 cents a mile.

Mr. HARRISON. I do not believe, however, with all due respect to this Committee, or any committee that has a great duty to perform, can get at the bottom of such a question as this, and can not form as good an opinion on a question of this kind as men could who have spent their lives in that business. I believe with the bill, the rate bill, passed last year, with the Interstate Commerce Commission having power to rectify individual cases, Congress ought not go ahead now and make wholesale horizontal reductions.

Mr. RICHARDSON. Do you not think it good policy to let the legislation that Congress has already enacted be tried first, and see how it develops and what its errors and defects may be?

Mr. HARRISON. Yes. I think the members of the Commission to whom high salaries are paid will become experts in this business, and

my opinion is that it would be best to let them settle the questions between the public and the railroads and give the public and the railroads a chance to get together.

Mr. RICHARDSON. The first application we have is now to change that legislation which took us several years to get through; an application to change it by a party of gentlemen before it is enforced.

Mr. HARRISON. Yes. We all know that everybody's expenses are increasing. The only thing that has decreased in the United States to my knowledge in the last twenty years has been railroad rates, both the freight and passenger, and the statistics of the Interstate Commerce Commission show that the passenger rates now charged in the United States are on the average, taking into consideration the excursion business, less than two cents a mile. They are one and nine-tenths cents, or something like that.

Now it is true, and I believe it, that if the railroads could get the same amount of travel and cut out this excursion business, and settle rates as much as possible among themselves, and fix the rates for school children and commuters' rates, they would be, on a two-cent basis, better off than they are now, and it would be easier to handle the business; but I think it would be of great detriment to the country.

Mr. ADAMSON. Ought they not to reduce in order to develop the business throughout the country, instead of having it in lumps?

Mr. HARRISON. A man who travels regularly and travels every day, who goes out in the country to live, and has an easy way to get into town, gets a commutation ticket; and then we come to the charitable institutions, and ministers of the gospel, and cases of that kind; and then along come excursions to enable people to travel; and a man who lives in an inland State, like Kentucky, for example, who has never seen the seashore or the ocean, if he can come 1,000 miles and spend two weeks for $15—and they run them in solid trains—that is a good thing for him, and for those people generally. That is the only vacation they get.

Mr. ADAMSON. But I take it that in an excursion the facilities of education are not as great as if he can take his pleasure in his own time and go when he chooses.

Mr. HARRISON. A great many men would have $40 to spend fo their whole vacation, and would rather take their chances of taking trip of that kind in an excursion.

Mr. KENNEDY. Do any of the States in which you operate have a rate fixed by law?

Mr. HARRISON. No, sir; none of them, but every one of them has a railroad commission.

Mr. KENNEDY. Do they fix the rates?

Mr. HARRISON. No practical rate.

Mr. KENNEDY. Our State, Ohio, has a 2-cent rate.

Mr. HARRISON. Yes; we do business in your State, in the sense of terminal business alone.

Mr. KENNEDY. If a man buys a ticket at Sharon, Pa., to any point in Ohio it is 3 cents per mile. Across the State line, in Ohio, if a man buys a ticket, he will get a 2-cent rate.

Mr. HARRISON. We find it is necessary to make the same charge. In other words, we believe that if a bill of this kind should pass or go into effect we should have to make our State rate on the same basis as the interstate rate. In Kentucky, say, where we have a larger pro-

portion of our mileage, we would have to put in a 2-cent rate, and if we did so we could not sustain a 3-cent rate in Tennessee or Alabama; or if Tennessee or Alabama, or either of them, put in a 2-cent rate we could not sustain the 3-cent rate in Kentucky.

Mr. KENNEDY. When your road built the road to reach the coal field in Kentucky, was it?

Mr. HARRISON. Yes.

Mr. KENNEDY. Did you incorporate that road, or did you lease it?

Mr. HARRISON. No, sir; they built it under its own charter.

Mr. KENNEDY. The Louisville and Nashville charter?

Mr. HARRISON. Yes, sir; we are building another road under another charter. Whenever it is built we will take it over. That was done in order to get the right of way cheaply, and to keep competitors in the dark as much as possible.

Mr. RICHARDSON. Have you not some policy in the Louisville and Nashville Railroad by which emigrants or settlers coming from the Northern or Middle States are transported more cheaply than the ordinary passenger traffic?

Mr. HARRISON. We have a department which has lately been organized in the last two or three years, called the Industrial Emigration Department. The duties of the man in charge of that and of his subordinates are to exploit the advantages and features on our line of road, and that has been done especially in Alabama and Georgia; and in Alabama, since the organization has been at work, the price of land has increased from $3 and $5 to $25 an acre. Much of that land recently bought by those people is used for trucking.

Mr. RICHARDSON. Have you any idea, taking the fiscal year ending June 30 last, how many settlers, not immigrants, but settlers from the Northern States—Indiana, New York, Illinois, Ohio, etc.—were carried over the Louisville and Nashville Road and were located in Alabama?

Mr. HARRISON. No, sir.

Mr. RICHARDSON. I have the figures. The number was 711 families, and they took up 42,000 acres of land. The bulk of those people came from the State of Illinois.

Mr. HARRISON. We sent a lot of them down there, and that has been in operation only about three or four years.

Mr. RYAN. You do that for future business?

Mr. HARRISON. Yes; not for pure philanthropy. It is a business proposition. It is time, I think, to recognize the fact that a railroad can not prosper without the people prospering in the territory through which it passes. The proposition of squeezing the life out of a region or community is impracticable.

Mr. RICHARDSON. You know Mr. Pratt?

Mr. HARRISON. Yes, sir. They have raised the price of land down there, and I expect you know about that better than I do.

Mr. RICHARDSON. And they have done this and greatly tended to increase the amount of cotton produced by white labor?

Mr. HARRISON. Yes; they have increased the white labor of the South.

Mr. ESCH. In some of the Western lines, or on most of the Western lines, they will sell you a 1,000-mile ticket, and when you come to surrender or turn the ticket in, or turn in the cover, they will make a rebate of $19.50.

Mr. HARRISON. Yes, we have that.

Mr. ESCH. Is there a time limit?

Mr. HARRISON. It is usually extended for a year, but it is redeemed at face value by sending it in to the general passenger agent. It is not practicable to redeem it at every station. All the holder has to do is to put a two cent stamp on it and send it to the general passenger agent, and it is then redeemed.

Now I have some figures as to the relative population of some portions of the South——

Mr. ADAMSON. Do you redeem the balance of that ticket at 2½ cents a mile?

Mr. HARRISON. We do, or we issue it anew again.

There are three or four propositions that I want to suggest to the Committee, and without argument I will give the figures on which I base them.

First. That other things being equal, earnings on passenger business of a given road increase in proportion to the volume of traffic handled, and,

Second. That the volume of traffic increases in direct ratio to the density of population in the territory traversed, and,

Third. That the economic law that the price that can profitably be charged for a given quantity decreases in proportion to the increase in the amount sold governs passenger as well as other business, whence it follows,

Fourth. That a road operating through a thickly populated section of the country can afford to accept a lower rate per mile for passenger transportation than a road serving a comparatively sparsely settled portion of the country.

Now, the Louisville and Nashville Railroad is distinctly a Southern railroad. It was incorporated in Kentucky. It was built South, and all the lines it operates are in the South except a small portion running from Evansville, Ind., to East St. Louis, Ill., and it has a stock connection running to Chicago. But the Louisville and Nashville Railroad is a distinctively Southern railroad as a definite proposition, its proper lines being in Kentucky, Tennessee, and Alabama, and it having also lines in North Carolina, Illinois and Indiana, and having terminals in Ohio and Missouri. It also has 66 miles of railroad in the State of Virginia.

I have made a table showing the comparison of results of operations of roads in the New England States and Middle States, the South Atlantic States, the Gulf and Mississippi Valley States.

It may be assumed, in view of the fact that certain roads operating in New England and Eastern States have adopted a maximum rate of 2 cents per mile for passenger transportation, that such rate is not unreasonable on such roads; but it does not follow that such rate would be reasonable or just on other roads serving a different section of the country where the circumstances and conditions surrounding the traffic, especially so far as density of population, amount of travel, earnings from passenger transportation, etc., are concerned, are substantially dissimilar. Hence it remains to show the totally dissimiliar conditions surrounding the transportation of passenger traffic in Southern States from those controlling in the New England and Eastern States.

The following comparisons of results of operations of roads in the New England and Middle States with those in the South Atlantic and

Gulf and Mississippi Valley States (as enumerated below) during the year 1905, have been taken from Poor's Manual of Railroads for 1906, and are reproduced for the purpose of showing the dissimilarity between conditions in the Southern States and those in the Eastern and New England States.

The groups mentioned are [reads]:

New England States.—Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut.

Middle States.—New York, New Jersey, Pennsylvania, Delaware, and Maryland.

South Atlantic States.—Virginia, West Virginia, North Carolina, South Carolina, Georgia, and Florida.

Gulf and Mississippi Valley States.—Alabama, Mississippi, Kentucky, Tennessee, and Louisiana.

The following shows the length of roads in operation, the number of passengers carried, and the average number of passengers carried per mile of railroad during the year 1905 in the United States, in the New England States, in the Middle States, in the South Atlantic States, and in the Gulf and Mississippi Valley States:

	Length of roads in operation.	Number of passengers carried.	Average number of passengers per mile of road.
United States	213,635	745,446,641	3,489
New England States	7,922	125,614,430	15,856
Middle States	26,954	291,117,696	10,800
South Atlantic States	25,781	38,011,809	1,474
Gulf and Mississippi Valley States	11,473	21,643,000	1,886

This table shows, gentlemen, that while the roads in the New England States and in the Middle States are the only ones, I understand, that on account of business purposes or business considerations, for reasons of their own, have put the 2 cents a mile rate into effect, I assume that in doing that they find it possible to exist and make a profit at that rate. That is the principal reason why I compare the territory of those lines with the Southern States to show the density of traffic.

The above table also shows that the mileage of roads in the New England States was only 3.71 per cent of the total mileage in the United States, while the number of passengers carried by roads in the New England States was 16.85 per cent of the total number of passengers carried in the United States.

In other words, they carried five times as many passengers as they would carry if each part of the country was equally populous.

Mr. Adamson. The average?

Mr. Harrison. Yes. It shows, too, that the mileage of roads in the Middle States was only 12.62 per cent of the total mileage in the United States, while the number of passengers carried by roads in the Middle States was 39.05 per cent of the total number of passengers carried in the United States.

It shows that the mileage of roads in the South Atlantic States was 12.07 per cent of the total mileage in the United States, although the number of passengers carried by the roads in the South Atlantic States was only 5.10 per cent of the total number of passengers carried in the United States.

It shows that the mileage of roads in the Gulf and Mississippi Valley States was 5.37 per cent of the total mileage in the United States,

although the number of passengers carried by roads in the Gulf and Mississippi Valley States was only 2.77 per cent of the total number of passengers carried in the United States.

Further, it shows that the average number of passengers carried per mile of road in the New England States was 4.54 times as many as the average number of passengers carried per mile of road in the United States, and that the average number of passengers carried per mile of road in the Middle States was 3.09 times as many as the average number of passengers carried per mile of road in the United States, while the average number of passengers carried per mile of road in the South Atlantic States was only 0.42, and in the Gulf and Mississippi Valley States only 0.53 times as many as the average number of passengers carried per mile of road in the United States generally.

Now, compare the districts and sections to which I have called attention with each other.

Mr. SHERMAN. If it will not interrupt you, let me ask you right there: Is it not a fact that in some of the sections you refer to, for instance, your territory from Louisville to the Gulf, there is a section in which the average passenger would not travel very much farther than the average passenger would travel in the New England States?

Mr. HARRISON. That is a fact.

Mr. ADAMSON. Yet you tabulate it per mile?

Mr. HARRISON. Yes.

Mr. SHERMAN. But you are not giving it per mile.

Mr. HARRISON. I will give it. These figures are taken from Poors' Manual and the reports of the Interstate Commerce Commission. Now, this table which I will file with the committee, with your permission, also shows that while the number of miles of road in operation in the South Atlantic States was 3.26 times as many, and in the Gulf and Mississippi Valley States 1.48 times as many, as the number of miles of road in operation in the New England States, yet the number of passengers carried by roads in the New England States was 3.3 times as many as in the South Atlantic States, and 5.3 times as many as in the Gulf and Mississippi Valley States; and that the average number of passengers carried per mile of road in the New England States was 10.7 times as many as the average number per mile of road in the South Atlantic States, and 5.19 times as many as the average number carried per mile of road in the Gulf and Mississippi Valley States.

Mr. SHERMAN. Is not the conclusion to be drawn from those figures, then, either that you are not charging enough, or that the railroads in certain other sections of the country, to which you refer, are charging vastly more than they should, according to your argument?

Mr. HARRISON. No, sir; I do not think so. We are simply showing not that the railroads there charge too much, but that our railroads are not charging too much. I think it is not assumed that because a railroad makes money it is charging too much, any more than any other business, because you ought to look at the value of the service that is being rendered to the man, and I presume those roads you refer to are giving good service for value received for 2 cents a mile; as good service for 2 cents a mile as we claim in respect to the service rendered for 3 cents a mile.

Mr. RYAN. On the basis of that calculation you ought to get from eight to ten times as much as they get in New England.

Mr. HARRISON. Yes; if that were the only controlling feature. But I am giving that to show the wide divergence of circumstances throughout the country, and to show how unjust it would be to make a hard-and-fast rule and say that we in the Southern States should be governed by the same conditions as obtain in New England.

Mr. BARTLETT. That is on the principle that a man having more customers will make more money?

Mr. HARRISON. Yes. If a man sells a thousand dollars' worth of groceries a month, he is bound to sell them at a greater gross profit than a man who sells only one hundred dollars' worth.

Mr. SHERMAN. That does not include the right of way?

Mr. HARRISON. No, sir.

Mr. ADAMSON. You lose sight of the public function which the railroads perform.

Mr. HARRISON. No, sir; I do not.

Mr. ADAMSON. The railroad is a quasi-public institution, and is required to perform a certain public function.

Mr. HARRISON. I say that the railroad is entitled to its hire.

Mr. ADAMSON. You said that the fact that a man was making money did not show that he was charging too much?

Mr. HARRISON. Yes.

Mr. ADAMSON. But the people who primarily grant the franchises to the road, the road being a public institution, have the right to use it at a proper rate.

Mr. HARRISON. Yes. I take this position, that a railroad company has the right to charge only a reasonable rate for the service it performs, whether it makes or loses money. If it can not stay in business at a reasonable rate, let it go out of business. If another management comes in and can make money and still treat its people fairly, I say the fact that it does make money is no valid reason for cutting down the rate. After all, there are a great many things that must be taken into consideration in arriving at what is a reasonable rate, and when that is arrived at the railroad company has the right to charge that, and no more, and no less.

Mr. ADAMSON. If it makes an undue profit from the people on whom it lives, there should be an inquiry about it.

Mr. HARRISON. If it makes an outrageous profit it should be looked into.

Mr. ADAMSON. I do not mean an outrageous profit, but a profit out of proper proportion.

Mr. HARRISON. I do not think you will find one that does that.

Mr. SHERMAN. Do you not think we ought to have furnished, by some of these gentlemen, certain other facts than these you now present? For instance, the fact that the average price per acre would be $30 per acre between New York and New Haven, on the New Haven road? In some localities it would be $3,000. The cost of construction between New York and New Haven is perhaps the most expensive in the world. There are 75 miles where there is not a single grade crossing. Do you not think that those facts ought also to be presented here?

Mr. HARRISON. Yes, sir; and that was exactly the point I was making awhile ago in suggesting that a legislative committee should not attempt to make a horizontal reduction of rates as a whole, because it is absolutely impossible to give all those facts. I could work a year upon

those facts and still not get to the bottom of them. We have to give you what we can.

Here you have, in the Interstate Commerce Commission, a trained body that has the right to remedy these things, and who do not have to make a horizontal or rigid rule, and who can make a particular case fit the circumstances of that case. That is why I claim there ought not to be any law or legislation on the subject. You might ask the Interstate Commerce Commission to investigate or find out what could be done and report to Congress, to let them change it.

Mr. KENNEDY. That body takes up these matters on the complaint of the individual passenger.

Mr. HARRISON. If anybody is hurt in this country by passenger rates, they will howl all right.

Mr. SHERMAN. They have howled.

Mr. KENNEDY. They are howling out in our section; but the trouble is, no one makes a complaint to the Interstate Commerce Commission.

Mr. HARRISON. Yes; people make complaints about things without making a study of the subject.

Mr. KENNEDY. We have a 2-cent rate in Ohio flat, whether you buy a ticket or not; but when you go across the State line they immediately tax us more. Whenever we get outside of Ohio we are taxed more.

Mr. HARRISON. Now this table shows, further, that, while the number of miles of road in operation in the South Atlantic States was about the same, being only 4.4 per cent less, and in the Gulf and Mississippi Valley States was 42 per cent, as much as the number of miles of road in operation in the Middle States, yet the number of passengers carried in the Middle States was 7.6 times as many as carried in the South Atlantic States, and 13.3 times as many as carried in the Gulf and Mississippi Valley States. It also shows that the average number of passengers carried per mile of road in the Middle States was 7.3 times as many as in the South Atlantic States and 5.7 times as many as in the Gulf and Mississippi Valley States.

The above clearly proves that the density of passenger traffic in the New England and Middle States is materially and even radically greater than in the Southern States, whence it follows that it would be manifestly unjust to compel the roads operating in said Southern States to maintain as low a rate on passenger traffic as can be operated by roads serving the thickly-populated New England and Middle States.

As further illustrating the dissimilarity between the passenger traffic in the New England and Eastern States, and in the Southern States, there is shown below the length of roads in operation, the gross passenger earnings and the average passenger earnings per mile of road during the year 1905 in the United States, in the New England States, in the Middle States, in the South Atlantic States, and in the Gulf and Mississippi Valley States [reads]:

	Length of roads in operation.	Gross passenger earnings.	Average receipts per mile of road.
	Miles.		
United States	213,635	$484,929,076	$2,269
New England States	7,922	39,422,607	4,976
Middle States	26,954	124,137,841	4,605
South Atlantic States	25,781	36,582,055	1,418
Gulf and Mississippi Valley States	11,473	19,943,402	1,738

The above data shows that although the mileage of roads operated in the New England States was only 3.71 per cent of the total mileage in the United States, yet the gross passenger earnings in the New England States were 8.1 per cent of the total gross passenger earnings in the United States, and the average receipts per mile of road in the New England States were 119.3 per cent greater than the average receipts per mile of road in the United States.

It shows that although the mileage of roads operated in the Middle States was only 12.62 per cent of the total mileage in the United States, yet the gross passengers earnings in the Middle States were 25.7 per cent of the total gross passenger earnings in the United States, and the average receipts per mile of road in the Middle States were 103 per cent greater than the average receipts per mile of road in the United States.

It shows that although the mileage of roads in the South Atlantic States was 12.07 per cent of the total mileage operated in the United States, yet the gross passenger earnings in the South Atlantic States were only 7.5 per cent of the total gross passenger earnings in the United States, and the average receipts per mile of roads in the South Atlantic States were 37.5 per cent lower than the average receipts per mile of roads in the United States.

It shows that although the mileage of roads in the Gulf and Mississippi Valley States was 5.37 per cent of the total mileage in the United States, yet the gross passenger earnings in the Gulf and Mississippi Valley States were only 4.1 per cent of the total gross passenger earnings in the United States, and the average receipts per mile of roads in the Gulf and Mississippi Valley States were 23.4 per cent lower than the average receipts per mile of roads in the United States.

It also shows that although the mileage of roads in the South Atlantic States was 225.4 per cent and in the Gulf and Mississippi Valley States 44.8 per cent greater than the mileage of roads in the New England States, yet the gross passenger earnings of roads in the South Atlantic States were 7.2 per cent and in the Gulf and Mississippi Valley States 49.4 per cent lower than the gross passenger earnings of roads in the New England States, and the average receipts per mile of roads in the South Atlantic States were 71.5 per cent and in the Gulf and Mississippi Valley States 65.1 per cent lower than the average receipts per mile of roads in the New England States.

It also shows that although the mileage of roads in the South Atlantic States was only 4.4 per cent and in the Gulf and Mississippi Valley States 57.4 per cent lower than the mileage of roads in the Middle States, yet the gross passenger earnings of roads in the South Atlantic States were 70.5 per cent and in the Gulf and Mississippi Valley States 83.9 per cent lower than the gross passenger earnings of roads in the Middle States, and the average receipts per mile of roads in the South Atlantic States were 69.2 per cent and in the Gulf and Mississippi Valley States 62.2 per cent lower than the average receipts per mile of roads in the Middle States.

In other words, gentlemen, the table shows that the New England States, with 7,900 miles of road, earn $39,422,000, an average of $4,796 per mile of road, whereas the Gulf and Mississippi States, with 11,000 miles of road, earn only $19,000,000—about a third as much per mile of road.

Mr. SHERMAN. Can you tell, Mr. Harrison, what is the capitaliza-

tion of the roads and the bonded indebtedness of the roads in those two groups?

Mr. HARRISON. I can get that. I have not got it now. I think that it is probably higher in the New England States.

Mr. SHERMAN. Yes; they must be vastly higher.

Mr. HARRISON. I think some of our Southern roads are highly bonded, also.

Mr. SHERMAN. What is the average bonding of the Louisville and Nashville?

Mr. HARRISON. About $24,000,000.

Mr. SHERMAN. What is the capital?

Mr. HARRISON. About $60,000,000.

Mr. STEVENS. Do you take the capital into account in fixing your rates?

Mr. HARRISON. No, sir.

Mr. STEVENS. Do you know of that being done?

Mr. HARRISON. No, sir. The only way to do is to go to the end of the year and count your expenses and see how much you have. Nobody can predict in advance the number of carloads of freight, or the number of passengers that would offer.

Mr. BURKE. I intended to ask you the same question that we asked of Mr. Nicholson. He gave us the earnings on the net passenger business. One of these questions was: To what account are the charges for damages which occur debited? How are those charges located? How are they charged?

Mr. HARRISON. In our road the damages are charged to the train that hits the person damaged. If a man or woman gets on or off at a station, if we settle with him or her—if, for example, that occurs at Elizabethtown, Ky., a town on the main line, it is debited or counted against the passenger account, main division.

Mr. BURKE. It is charged to the passenger account?

Mr. HARRISON. Yes; and if it were a freight, it would be charged to the freight account.

Mr. BURKE. Is that system uniform?

Mr. HARRISON. It is on our road. While 23 per cent of our earnings are passenger, as against 77 per cent of freight, over 50 per cent of injury expenses are for passenger trains.

Mr. BURKE. Take a wreck, for example, such as happened here on the Baltimore and Ohio recently. In case they pay damages, will that be charged to the passenger account of the company?

Mr. HARRISON. So far as the books are concerned, it would show in the comptroller's report to the president and stockholders as an item charged to the passenger traffic, and it would show in the passenger expenses.

Mr. BARTLETT. If a person were hit at a crossing, how would it be charged?

Mr. HARRISON. It would be charged to the train that hit him. Sometimes a man will be found alongside the road dead or hurt, and we do not know what kind of a train hit him. That is charged on an arbitrary division, or sometimes it is charged on train mileage. It is absolutely impossible in such cases to get the details of all of them.

[Thereupon, at 12 o'clock noon, the committee adjourned until 10.30 o'clock to-morrow morning, Friday, January 11, 1907.]

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
HOUSE OF REPRESENTATIVES,
Washington, D. C., Friday, January 11, 1907.

The committee this day met at 10.30 o'clock a. m., Hon. William P. Hepburn in the chair.

The CHAIRMAN. The committee will be in order. Mr. Harrison, if you will proceed now we will hear you. This is our regular meeting day, and we have a little business to transact aside from the hearing.

STATEMENT OF MR. T. B. HARRISON, JR., OF LOUISVILLE, KY.—Concluded.

Mr. HARRISON. I will not keep you more than five or ten minutes, Mr. Chairman.

The CHAIRMAN. I am not speaking with reference to that idea, but I was simply going to say that we might have to interrupt you before you finished.

Mr. HARRISON. Yes, sir; I am practically through.

The CHAIRMAN. Take your own time.

Mr. HARRISON. Yes, sir. Just before I concluded yesterday, one of the members of the Committee asked me whether the earnings—I was reading from tables showing the passenger earnings in various parts of the country and comparing especially those in the Eastern, Middle, Southern and Gulf, and Mississippi Valley States—one of the members asked me whether the freight or total earnings bore the same comparison in those States as the passenger earnings that I gave. I was not able at that time to give the information, but I have, by referring to the statistical report of the Interstate Commerce Commission for 1904, which is the last published statistical report of that Commission, ascertained that the total earnings of the railroads in those States bear the same relation practically as the passenger earnings, to which I called your attention yesterday. They are practically the same States, though not exactly the same. I divided, you know, the States up into groups, embracing, respectively, New England, the Middle States, the South Atlantic States, and the Gulf and Mississippi Valley States.

The Interstate Commerce Commission, however, divides the States up into somewhat different statistical groups, Group No. 1 being composed of the New England States; Group No. 2 being composed of New York, Pennsylvania, New Jersey, Delaware, and Maryland, substantially; Group No. 3 of Ohio, Indiana, part of Michigan, and a little part of Pennsylvania; Group No. 4 being composed of Virginia and West Virginia, and North and South Carolina, and Group No. 5 being composed of Kentucky, Tennessee, Georgia, Alabama, Florida, and Mississippi, and, it seems, a small portion of Louisiana. All lines of the Louisville and Nashville Railroad were incorporated in Group No. 5 except that portion of the line between Evansville, Ind., and St. Louis, which is in Group No. 3——

Mr. ESCH. And also your Virginia line?

Mr. HARRISON. Yes, and in the Virginia line, which is in Group No 4.

Now, if you will refer to the condensed income account by groups, on page 81 of the statistical report of the Interstate Commerce Commission, you will see that the earnings, both gross and net income from

operation, correspond, and after taking total deductions from income and adding to the income from operation the income from other sources—I will not take up the time of the committee to read these figures—you will see that the comparison is carried out. The income from operation in these groups, particularly Groups No. 4 and No. 5, is much less than for the other groups, and the total income is much less, both their total and per mile of line, and the total net income, after all deductions, is very much less than on these groups Nos. 1, 2 and 3, thus carrying out the comparison that I was trying to make yesterday.

Condensed income account for the year ending June 30, 1904, classified by territorial groups

CONDENSED INCOME ACCOUNT, BY GROUPS.

Item.	Group I. (8,063.26 miles of line represented.)		Group II. (23,022.10 miles of line represented.)		Group III. (24,957.51 miles of line represented.)	
	Amount.	Per mile of line operated.	Amount.	Per mile of line operated.	Amount.	Per mile of line operated.
Gross earnings from operation	$112,840,810	$13,994	$464,760,717	$20,187	$296,076,749	$11,863
Less operating expenses	82,766,520	10,264	312,576,882	13,577	220,636,807	8,840
Income from operation	30,074,290	3,730	152,183,835	6,610	75,439,942	3,023
Income from other sources	15,945,933	1,977	67,507,950	2,933	27,016,201	1,082
Total income	46,020,223	5,707	219,691,785	9,543	102,456,143	4,105
Total deductions from income	29,093,000	3,608	151,598,030	6,585	72,770,274	2,916
Net income	16,927,223	2,099	68,093,755	2,958	29,685,869	1,189
Total dividends (including "Other payments from net income")	17,830,516	2,211	55,105,191	2,394	a 26,032,697	1,043
Surplus from operations	b 903,293	b 112	12,988,564	564	3,653,172	146

Item.	Group IV. (12,192.19 miles of line represented.)		Group V. (23,847.32 miles of line represented.)	
	Amount.	Per mile of line operated.	Amount.	Per mile of line operated.
Gross earnings from operation	$85,249,421	$6,992	$159,278,456	$6,679
Less operating expenses	54,572,064	4,476	112,540,355	4,719
Income from operation	30,677,357	2,516	46,738,101	1,960
Income from other sources	3,823,830	314	10,218,886	428
Total income	34,501,187	2,830	56,959,987	2,388
Total deductions from income	22,748,407	1,866	41,304,993	1,732
Net income	11,752,780	964	15,651,994	656
Total dividends (including "Other payment from net income")	c 7,064,674	579	8,334,154	349
Surplus from operations	4,688,106	385	7,317,840	307

a Includes $4,925, "Other payments from net income." b Deficit.
c Includes $32,805, "Other payments from net income."

Now I have another table which I would like to file with the committee, if I may be permitted, showing the population per square mile in the various States involved with the question I have been trying to present.

Comparative density of population of the State of Ohio and of counties of Michigan and New York on lines of the Lake Shore and Michigan Southern, Michigan Central, and New York Central and Hudson River railroads, where the rates for transportation of passengers are based on 2 cents per mile, and of the Sates comprised in group 5 of the Interstate Commerce Commission's report for fiscal year ending June 30, 1904.

	Population.	Square miles.
NEW YORK.		
NEW YORK CENTRAL AND HUDSON RIVER RAILROAD.		
County.		
Albany	165,571	528
Cayuga	66,234	722
Columbia	43,211	647
Dutchess	81,670	800
Erie	433,686	1,040
Genesee	34,561	484
Herkimer	51,049	1,426
Madison	40,545	649
Monroe	217,854	643
Montgomery	47,488	399
New York	2,050,600	63
Niagara	74,961	522
Oneida	132,800	1,180
Onondaga	168,735	794
Ontario	49,605	652
Orleans	30,164	396
Putnam	13,787	239
Rensselaer	121,697	664
Schenectady	46,852	210
Seneca	28,114	328
Wayne	48,660	624
Westchester	184,257	450
Average population per square mile, 307.		
Average population per square mile, excluding New York County and Greater New York, 155.	4,132,101	13,460
MICHIGAN.		
MICHIGAN CENTRAL.		
County.		
Berrien	43,390	566
Branch	26,397	504
Calhoun	52,963	697
MICHIGAN—Continued.		
MICHIGAN CENTRAL—con.		
County—Continued.		
Cass	20,080	500
Jackson	47,122	695
St. Joseph	23,229	506
Washtenaw	46,776	690
Wayne	386,827	626
Monroe	32,921	571
Average population per square mile, 127.	679,655	5,356
State.		
Alabama	1,828,697	51,540
Florida	528,542	54,240
Georgia	2,323,635	58,980
Kentucky	2,147,174	40,000
Mississippi	1,551,270	46,340
Tennessee	2,020,616	41,750
Average population per square mile, 35.	10,399,934	292,850
LAKE SHORE AND MICHIGAN SOUTHERN.		
County.		
Branch	26,397	504
Hillsdale	29,837	605
Jackson	47,122	695
Lenawee	49,097	742
Monroe	32,921	572
Washtenaw	46,776	690
Wayne	386,827	626
St. Joseph	23,229	506
Average population per square mile, 130.	642,306	4,940
State.		
Ohio	4,157,545	40,760
Average population per square mile, 102.		

Mr. GAINES. What are those figures?

Mr. HARRISON. They are figures showing the density of population per square mile in the various States, based on the tabulation taken from page 81 of the statistics of railways in the United States, for 1904, published by the Interstate Commerce Commission.

We think another well-defined railroad principle is that the cost of the railroad traffic increases as the density of the traffic decreases; and I have here a report published by the Interstate Commerce Commission which shows the number of passengers carried per passenger locomotive and the number of passenger cars.

This table [producing table] shows the number of passengers carried per passenger locomotive and the number of passenger cars used for each 1,000,000 passengers carried in the New England, Middle, South Atlantic and Gulf and Mississippi Valley States during the year ending June 30, 1904; figures taken from the statistics of railways in the United States for the year 1904, as published by the Interstate Commerce Commission, which is the last available data.

	Passengers carried per passenger locomotive.	Passenger cars per 1,000,000 passengers carried.
New England States	97,294	39
Middle States	87,275	48
South Atlantic States	44,095	90
Gulf and Mississippi Valley States	45,876	79

The following table shows the approximate losses to the railroads in the South Atlantic and Gulf and Mississippi Valley States if the two cent passenger rate were put into effect, based on result of operations during the year 1904 as published by the Interstate Commerce Commission:

	South Atlantic States.	Gulf and Mississippi Valley States.
Number of passengers carrried 1 mile	697,273,338	1,418,824,060
Maximum earnings thereon at 2 cents per mile	$13,945,466.76	$28,376,481.20
Actual passenger earnings during year 1904	$16,744,066.00	$33,892,405.00
Less earnings at 2-cent rate	$13,945,466.76	$28,376,481.20
Reduction in revenue	$2,798,599.24	$5,415,923.80

Making an aggregate annual approximate reduction in the revenue of the roads operating in territory south of the Ohio and Potomac rivers and east of the Mississippi River $8,214,523.04.

The real reduction will almost surely be more than the amount estimated above, because of the fact that in estimating the maximum earnings under a 2-cent rate bill the estimate is based upon getting 2 cents per mile for each passenger; in other words, it is based upon a minimum rate of 2 cents per mile. As a matter of fact, it is believed that it will be impossible to get a minimum of 2 cents per mile, and it is confidently believed that the Southern roads would suffer a loss in revenue of at least $10,000,000 per annum if a 2-cent rate bill were put into effect.

We think that the actual reduction will be considerably more than that, because in figuring up the maximum earnings at 2 cents a mile I also figure that as a minimum. We do not believe, however, that any railroad under the 2-cent rate bill would be able to get a minimum of 2 cents when they have to carry, as I explained yesterday, these excursion trains at 1 and 1¼ and 1½ cents, and clergymen and schools at special rates, and carry at other rates based on the 1¼ fare, as well as short runs in cities and monthly rates, and things of that sort; so that from the best calculation I can make I believe that the Southern roads would suffer a loss of revenue of not less than $10,000,000 a year if the 2-cent rate bill went into effect without having any way of recouping that loss, and without a possible reduction in expense account.

Mr. Cushman. When you say southern railroads you mean what?

Mr. Harrison. I mean the railroads in the South Atlantic States, Gulf States, and Mississippi Valley States. Of course, other roads in other parts of the country would suffer equally, if not more, and that shows some of the force of the suggestion I was endeavoring to make to the committee, that a great big loss would result all over the country, and neither the committee nor anyone else can tell what it would be; and after the damage is done, there is no way of getting away from it.

Mr. GAINES. If it would not interrupt you, Mr. Harrison. You say that the enactment of the 2-cent rate bill would result in a loss to the Southern roads of $10,000,000?

Mr. HARRISON. Yes, sir.

Mr. GAINES. That reduction would be a reduction of practically 1 cent in the rate. Would that amount to $10,000,000?

Mr. HARRISON. It would hardly be 33⅓ per cent. On some roads it would be considerably more than a cent, while on some it would be less. On our roads we figure it would be about 22½ per cent; that is, the reduction on the face of the bill would be at about that rate, because our average is 2¾ cents per mile.

We have a maximum rate of 3 cents, as I explained yesterday, but we do not get that average. We feel that the effect of the reduction would be to put the rate below 2 cents; but, making the reduction, it would be about 22½ per cent, not a full reduction of 33⅓ per cent, as would appear by reducing the rate from 3 cents to 2 cents. But we feel that at a 2-cent rate we would have to figure out the other rates according to the basis of the straight ticket, and that they would be correspondingly reduced.

I have not tried to make a comparison of the Louisville and Nashville or any other particular railroad, because all I have said I hope will be taken as having been said for the good of the general cause. But it may be interesting to show a page taken from our annual report to the stockholders for the fiscal year ending June 30, 1906, as showing the increase in the expense of handling the passenger business for that year as compared with the previous year. I will file those figures with the secretary of the committee without reading them. But the table shows that while for the corresponding period of 1904 and 1905 the expenses of passenger trains increased 22 per cent, the percentage of earnings increased 16.6 per cent, thus forcibly illustrating that it is because of the fact of the increased cost of operation.

Mr. ESCH. When you say "years 1904–5" you mean fiscal years?

Mr. HARRISON. Yes. Whenever I say 1904 I mean the fiscal year ending June 30 of that year, and the same with respect to the years 1905 and 1906. In all cases I mean the fiscal year. This table shows all the items going into the cost of passenger operation:

Comparison of Groups I, II, III, and V, based on report of Interstate Commerce Commission for year ending June 30, 1904.

Miles of line represented.	Group I, 8,063.26.	Group II, 23,022.10.	Group III, 24,957.51.	Group V, 23,847.32.
Average population per square mile....	101	160	69	35
Page 24:				
Passenger cars per one million passengers carried	39	43	63	79
Passengers carried per passenger locomotive	97.294	87.275	50.557	45.876
Page 72:				
Passenger train mileage	36,569,906	102,066,302	65,301,278	37,090,923
Passengers carried..................	120,644,694	265,666,394	77,302,348	36,012,411
Passengers carried 1 mile...........	2,328,486,520	5,704,473,185	2,992,946,915	1,418,824,860
Passengers carried 1 mile per mile of line	286,513	246,552	120,548	59,927
Average number of passengers in train	62	54	44	34
Page 98:				
Revenue per passenger per mile....	$0.01787	$0.01751	$0.02008	$0.02365
Average revenue from each passenger carried	.34520	.37802	.78591	.96482
Revenue per train mile, passenger trains	1.29287	1.18937	1.12896	.99278
Passenger earnings per mile of road.	6,015.57	5,228.34	3,054.44	1,750.47

Now, some member of the committee asked me about the railroad building in 1906. Here is a copy of the Railroad Gazette of Friday, December 28, 1906, which purports to give the railroads built in 1906 by States and companies as compared with the building in 1905. With the permission of the committee I will file that also.

The CHAIRMAN. Just mark what you desire to have printed.

Mr. HARRISON. Yes, sir. That is comparatively accurate, I suppose, and it will show the railroads built and the States in which they were built.

Some question was also asked yesterday as to the equipment of cars. We, like the other railroads in the South, have been overrun with business to a great extent, but especially with freight business. I want, however, to suggest to the committee that our road has tried to get the necessary equipment to carry on its business, and I believe it has succeeded as well as any other railroad in the country, and has had as little trouble over lack of facilities as any other, and it has had absolutely no lack of facilities as to passenger business; and all this stir that you hear about, complaints as to shortage of cars, and inability to handle business, does not apply to passenger cars or to inability to handle passenger business, but to freight. That is caused, probably, by the fact that none of the passenger cars are filled to their capacity, whereas the freight cars are. In the last ten years we have practically increased our freight equipment 100 per cent. Of course the passenger equipment has probably been increased 20 per cent, or something like that.

Mr. LOVERING. What is the principal article of product that you transport?

Mr. HARRISON. I think coal or iron. Our traffic is pretty well diversified.

Mr. WANGER. Is it not another reason why there is no such shortage of passenger cars, that every company owning the passenger cars has control over them constantly?

Mr. HARRISON. That may help some; yes, sir; most of the passenger cars, except Pullmans occasionally, here and there. A passenger car stays on your line of road, whereas your freight cars get off, and some of the roads do not return them.

Mr. WANGER. Do not some of the roads lie down on other roads in the matter of freight cars?

Mr. HARRISON. That is claimed to be done; and sometimes we put an embargo on our cars and do not let them go off the line. Sometimes it is necessary to do that in order to protect the business that originates on the line. For instance, sometimes we will not let our coal cars go on the line of some other road; and I take it that I can say without danger of contradiction that the coal supply of the States served on the Louisville and Nashville has perhaps been better served than that in any other part of the country. It is a better service.

The CHAIRMAN. Are you allowed to do that under the interstate commerce law?

Mr. HARRISON. We get around that. We do not make an absolute iron rule about it. For instance, where there is an apparent shortage of coal, we will not furnish our cars to go from the Kentucky coal field to Chicago, because if a coal car gets to Chicago it is

lost just as though it were submerged in the sands of the sea. It is like a diamond that you drop on the street. You would never find it again. We have to do that in order to protect our own territory.

Mr. GAINES. Have you all your coal marketable originating on the Louisville and Nashville, without making other connections? Do you supply the Big Four?

Mr. HARRISON. Yes; we have been going to Cincinnati, and principally to Evansville, Ind.

The CHAIRMAN. How would you conduct an interstate commerce business on the basis you speak of, provided all other carriers entertained the opinion you do?

Mr. HARRISON. We need not do it, possibly, Mr. Chairman, except as the lines of the roads themselves are interested. That is only done in exceptional cases when things get blocked. That is, in such an exigency you just take a strong hand and put it on the situation and remedy it. The necessities of the case require it.

The CHAIRMAN. Is there no arrangement by which the companies participating in the business can secure the return of your cars?

Mr. HARRISON. We can always get promises, and very often we get the cars returned; but very often not; and I think the operating department of other roads perhaps say the same thing about us. [Laughter.] I had a case before the Kentucky commission several years ago where we declined to exchange coal cars with a company only 4 miles from our line. We made an agreement that the cars should be returned promptly. We found on experience that it took 27 days to return cars from that 4 miles.

The CHAIRMAN. An honorable man does not want to violate his promises. What emergency or reason is there for the creation of these violations of agreements and pledges as to the return of cars?

Mr. HARRISON. I do not know, sir. I suppose cars get off a line of road, get into a big freight terminal, and the superintendents and car managers and the local force want a car to load it for some point, and they see that car there, and they take it and load it and away it goes.

Mr. ADAMSON. What reason was there for delaying 27 days in returning the cars you speak of?

Mr. HARRISON. That was a small railroad, and they turned the cars over to points on the Southern Railway to the south. The Southern did not know where they belonged. When they came back they would perhaps be loaded anew and sent off somewhere else.

Mr. GAINES. What is the amount of "arbitrary" that one railroad pays to another for the use of its freight cars?

Mr. HARRISON. They had a per diem arrangement of 20 cents a day, and at the end of thirty days a dollar a day.

Mr. GAINES. What is it increased to now?

Mr. HARRISON. From 35 to 50 cents per day; perhaps 50 cents. Do you know Mr. Boyd?

Mr. BOYD. No.

Mr. HARRISON. They had a meeting recently in Chicago, and they——

Mr. GAINES. Why will not the railroads make an "arbitrary" sufficiently large to make it profitable to return a car and unprofitable to keep it?

Mr. HARRISON. I think some railroads are anxious to make the return, but others are not.

Mr. GAINES. Pardon me a moment: Take the case of the Chesapeake and Ohio. The shippers along that line can not supply the Western coal market unless the cars of the Chesapeake and Ohio are permitted to go West, and yet when the cars of the Chesapeake and Ohio are permitted to go West they do not see them any more. The day's runs for the miners and operators become fewer, and the transportation of the coal goes up to an unnecessarily high price, and it is not profitable to the man that ships it.

Mr. ADAMSON. I suppose the objection comes from the road that would have to pay the balance.

Mr. CUSHMAN. This charge of 50 cents a day for the use of a car of another company is not supposed to represent the adequate value, is it?

Mr. HARRISON. No, sir.

Mr. CUSHMAN. Why is it, then, that a less amount like that is agreed upon—less than the value?

Mr. HARRISON. I am not an operating man. I suppose it is just a matter of agreement. They used to have a mileage arrangement—three-fourths of a cent a mile, or something like that—then they changed it to this per diem. The reason I do not understand.

Mr. CUSHMAN. The idea is, that if a fixed charge like that is adopted for all roads, it is as fair for one as for another, whether it be too high or too low?

Mr. HARRISON. I take it that is the idea. I see that in the fiscal years 1896 and 1897 we had 19,660 freight cars, and for the fiscal year ending June 30, 1905, and June 30, 1906, we had 36,633 freight cars.

Mr. WANGER. Is the mileage of those years?

Mr. HARRISON. The mileage in 1906 has been increased not as much as the car supply, but it has been increased a good deal. The mileage in 1896 was 2,980.93. In 1906 it was 4,130.91, an increase of about 1,300 miles. We are, however, increasing now the freight equipment very much more rapidly than formerly. For instance, as between 1905 and 1906, in 1906 it was 3,000 cars, while the mileage was increased about 200 miles, and I think this year the increase will be probably larger than that, because right now they are turning out between 20 and 30 cars a day in our shops, and two engines a month besides other rolling stock, on contracts by purchase that I am not familiar with.

I have some other suggestions, gentlemen, but as there are a good many gentlemen here I do not want to take up more of your time. But with the permission of the committee I would like just to hand the material in.

The CHAIRMAN. Yes, sir. It is not a repetition of your oral speech, is it?

Mr. HARRISON. No; not at all, except in a very few instances. It is along the same general line.

The CHAIRMAN. Very well.

The following papers were filed by Mr. T. B. Harrison, jr.:

Table showing mileage built in 1906, classified by States.

State.	Number of companies building.	1906.	Number of companies building.	1905.
Alabama	8	81.9	4	103.08
Alaska	1	15.5	2	13.0
Arizona	3	47.81	1	45.47
Arkansas	19	260.24	11	198.51
California	11	139.47	6	34.27
Colorado	8	113.36	4	83.15
District of Columbia	1	1.0	.....	.....
Florida	12	205.75	4	10.8
Georgia	7	182.9	6	120.0
Idaho	6	184.4	5	109.7
Illinois	9	119.41	8	249.49
Indiana	6	101.03	3	171.79
Indian Territory	2	99.4	4	98.4
Iowa	.....	.....	3	15.2
Kansas	3	53.12	2	21.6
Kentucky	7	54.57	5	76.45
Louisiana	12	333.84	10	99.3
Maine	4	44.71	2	65.26
Maryland	.....	.....	1	40.7
Massachusetts	1	4.5	1	1.0
Michigan	3	24.8	9	87.76
Minnesota	6	138.07	5	108.29
Mississippi	8	165.14	5	120.5
Missouri	4	29.5	3	48.99
Montana	1	26.0	.....	.....
Nebraska	3	174.55	1	47.0
Nevada	4	282.05	3	86.99
New Jersey	1	2.67	3	9.9
New Mexico	2	151.0	3	122.5
New York	3	95.02	4	49.68
North Carolina	4	34.0	8	124.5
North Dakota	2	247.47	4	520.75
Ohio	4	61.0	3	84.06
Oklahoma Territory	2	36.0	3	154.4
Oregon	7	61.11	5	68.42
Pennsylvania	14	117.72	8	76.7
Rhode Island	.....	.....	1	3.5
South Carolina	3	41.0	2	28.0
South Dakota	6	388.23	4	116.0
Tennessee	6	65.0	5	151.2
Texas	18	634.67	9	338.5
Utah	6	153.52	5	66.02
Vermont	.....	.....	1	5.0
Virginia	5	121.27	2	13.96
Washington	5	103.06	3	49.5
West Virginia	5	78.78	8	165.23
Wisconsin	5	141.84	7	142.65
Wyoming	3	206.95	2	40.85
Total, United States	250	5,623.33	198	4,388.08
Canada	15	1,007.05	11	1,180.86
Mexico	8	296.5	5	238.42

The following table shows the population per square mile in 1903 in the various New England, Middle, South Atlantic, and Gulf and Mississippi Valley States.

	Population per square mile.		Population per square mile.
Rhode Island	431	Virginia	48
Massachusetts	370	South Carolina	46
New Jersey	268	West Virginia	41
Delaware	196	North Carolina	40
New York	160	Georgia	39
Pennsylvania	147	Alabama	37
Maryland	125	Mississippi	35
Connecticut	97	Louisiana	32
Kentucky	55	Florida	10
Tennessee	50		

Another well-defined railroad principle is that the cost of handling passenger traffic increases as the density of such traffic decreases. Statistics of Railways in the United States for the year 1904, as published by the Interstate Commerce Commission, show that the number of passengers carried per passenger locomotive and the number of passenger cars used for each 1,000,000 passengers carried in the New England, Middle, South Atlantic and Gulf, and Mississippi Valley States during the year were as follows:

	Passengers carried per passenger locomotive.	Passenger cars per 1,000,000 passengers carried.
New England States	97,294	39
Middle States	87,275	43
South Atlantic States	44,095	90
Gulf and Mississippi Valley States	45,876	79

Thus it will be noted that while the number of passengers carried per passenger locomotive in the New England States was more than twice the number carried in the South Atlantic or Gulf and Mississippi Valley States, yet the number of passenger cars required for the transportation of each 1,000,000 passengers in the New England States was less than half the number of cars required in either the South Atlantic or the Gulf and Mississippi Valley States. A logical result was that the proportion of passenger earnings to the total earnings in the New England States was 37.07 per cent, while it was only 19.64 per cent in the South Atlantic States, and only 21.28 per cent in the Gulf and Mississippi Valley States. Also the proportion of earnings from operations assignable to passenger service in the New England States was 43 47 per cent, while in the South Atlantic States and Gulf and Mississippi Valley States it was only 24.79 and 26.02 per cent, respectively.

The following figures show the approximate losses to the southern roads if the 2 cent passenger rate were put in effect, based on result of operations during the year 1904, as published by the Interstate Commerce Commission:

	South Atlantic States.	Gulf and Mississippi Valley States.
Passengers carried 1 mile	697,273,338	1,418,824,060
Maximum earnings thereon at 2 cents per mile	$13,945,466.76	$28,376,481.20
Actual passenger earnings during year 1904	$16,744,066.00	$33,892,405.00
Less	13,945,466.76	28,376,481.20
Reduction in revenue	2,798,599.24	5,415,923.80

Making the aggregate annual approximate reduction in revenue of the roads operating in territory south of the Ohio and Potomac rivers and east of the Mississippi River $8,214,523.04.

With respect to the effect of the proposed law on the Louisville and Nashville Railroad Company: It is not likely that consideration will be given any individual railroad, and therefore have not worked up any comparison between the Louisville and Nashville and other lines. However, the following extract from our annual report for the fiscal year ending June 30, 1906, is of interest in this connection.

Totals and averages for the year 1905–6 compared with the previous year.

Passenger traffic.	1905–6.	1904–5.	Percentage of— Increase.	Decrease.
Mileage of road operated	4,130.91	3,826.31	7.9607	
Miles run by revenue trains	7,847,170	6,973,475	12.5288	
Miles run by cars	41,245,410	38,788,804	6.3333	
Cars in each train	4.67	4.91		4.8880
Passengers carried	10,666,500	9,518,705	12.0583	
Miles each passenger was carried	34	38.90		12.5964
Passengers carried 1 mile	362,745,093	370,084,220		1.9831
Passengers carried in each train	41.09	46.84		12.2758
Passengers carried in each car	12.28	13.12		6.4024
Earnings from passenger trains	$10,868,150.53	$10,386,044.71	4.6419	
Expenses of passenger trains	$7,673,433.37	$6,287,268.31	22.0472	
Net earnings from passenger trains	$3,194,717.16	$4,098,776.40		22.0568
Earnings per mile of road	$2,630.93	$2,714.38		3.0744
Expenses per mile of road	$1,857.56	$1,643.17	13.0473	
Net earnings per mile of road	$773.37	$1,071.21		27.8041
Earnings per revenue train mile	$123.115	$131.450		6.3408
Expenses per revenue train mile	$86.925	$79.574	9.2379	
Net earnings per revenue train mile	$36.190	$51.876		30.2375
Earnings per car mile	926.350	$26.776		1.5910
Expenses per car mile	$18.604	$16.209	14.7757	
Net earnings per car mile	$7.746	$10.567		26.6963
Earnings per passenger	$82.79	$88.98		6.9566
Earnings per passenger per mile	$2.434	$2.289	6.3346	
Percentage of expenses to passenger earnings	70.60	60.54	16.6171	

This shows that while the earnings from passenger trains increased during the year 1905 and 1906, 4.6419 per cent over the corresponding period of 1904 and 1905, the expenses of passenger trains increased 22.0472 per cent and the percentage of expenses to passenger earnings increased 16.6171 per cent, thus forcibly illustrating the well-known fact that the cost of operation has increased in the past year out of all proportion to the increase in revenue derived from passenger traffic.

In connection with the demand for a reduction in passenger charges it may be pointed out that the average rate per passenger per mile is steadily declining. The last year for which the Interstate Commerce Commission has compiled figures is 1905. These show that in the ten years from 1895 to 1905 the rate has declined from 2.040 to 1.962 cents per mile, or 3.98 per cent. This rate of decline would have been greater but for the effect upon the average of the loss of a considerable amount of low-rate suburban and interurban travel, due to the development of the trolley system. The extent of this is shown by the fact that the average distance traveled per passenger increased from 24.02 miles in 1895 to 32.21 miles in 1905. This is an important point, for the reason that, while suburban traffic is carried at low rates, it is more profitable than much of the longer distance travel, because it is more dense and trains can be loaded more nearly to their capacity.

That the decline in the average passenger rates in the United States has not been so rapid and constant as the decline in the average freight rate has been due almost entirely to the fact that, owing to the constant public demand for more frequent, improved, and faster passenger trains, it has been impossible for the roads to introduce economies in their passenger service. An increased volume of freight traffic has made it possible for the roads to reduce the unit charge without impairing their revenues. Increased passenger travel, on the other hand, has called for increased expenditures in nearly the same proportion. This is strikingly illustrated by comparing the statistics of train service in the two branches. By using cars of larger capactiy and engines of greater tractive power it has been possible to increase the average freight-train load from 189.69 tons in 1895 to 322.26 tons in 1905, an increase of 69.88 per cent. On the other hand, the average number of passengers per train in 1895 was 38 and in 1905 it had increased to but 48, or only 26.31 per cent. In the meantime, however, the total number of passenger carried had increased from 507,421,362 in 1895 to 738,834,667 in 1905—an increase of 231,413,305, or 45.60 per cent. In other words, the roads, in response to the public demand for more frequent service, have been compelled to increase the number of their trains vastly out of proportion to the traffic requirements of the service, and, at the same time, in response to the desire of the public for greater comfort and luxury, the cost of passenger equipment has been increased.

While the average number of passengers per train is but 48 the railways can not reduce their average train capacity to anything like that figure. A train must always have accommodations for the largest number of passengers that it may reasonably be expected to be called upon to carry, though, unless it be a suburban train or a through train in a region of dense and regular traffic, it may not be filled to even one-half its capacity once in six months. Every road has the experience from time to time of running passenger trains for a greater or less distance practically empty or entirely so. For instance, on Christmas Day, 1905, the Pennsylvania Limited, one of the most expensive passenger trains in the world, ran from Jersey City to Pittsburg without a single passenger and, though not a cent of passenger revenue was received, the cost to the Pennsylvania was practically the same as if it had been loaded to its full capacity.

Practically every railway in the country has some passenger trains that regularly fail to earn enough to pay the bare cost of their own movement and that contribute nothing either to maintenance, expenses, fixed charges, or profits. Yet these trains must be run to meet the needs of the people dependent on the road for transportation. There are roads on which the passenger service as a whole does not do more than earn its proportion of the operating expenses and contributes nothing to fixed charges or profits. There are other roads, enjoying dense passenger traffic, on which the passenger business contributes to both fixed charges and profits, but it may be very seriously questioned whether the roads of the United States, considered as a whole, earn any profits whatever from their passenger business.

A mathematically accurate answer to this question can not be made for the reason that a very large proportion of the total expenses of a railway are joint expenses that can not be apportioned accurately between the freight and passenger services. The average cost per mile of running all the trains on a road can be determined with absolute exactness. It is also possible to determine with approximate accuracy the out-of-pocket expense of actually moving either the freight trains or the passenger trains and of maintaining freight equipment and passenger equipment. But when it comes to apportioning between the two services, station and yard expenses, maintenance of way expenses, general expenses, and fixed charges, the problem is very complex and on those roads where its solution is attempted much depends on the traffic and operating conditions peculiar to a particular road and to the views of the accounting department as to the proper apportionments to be made. The division usually made approximates more or less closely to an apportionment of all joint expenses in proportion to freight-train mileage and passenger-train mileage. A calculation made on this basis makes the expenditures per passenger-train mile somewhat less than those per freight-train mile, due to the fact that, owing to the greater speed of passenger trains, the cost of movement per mile is less. There are strong reasons for contending, however, that the passenger service should be charged with a somewhat greater proportion of some joint expenses than that based on train mileage. For instance, on most roads this service should bear a greater proportion of the cost of construction and interest on this cost, for often great expense is incurred to eliminate curves and shorten the line for thebenefit of the fast-passenger service when, if freight alone were considered, the expense would not be incurred. The expense of elevating tracks above street grades in cities or of depressing them below grade in an open cut, or in a tunnel, is almost always made necessary for passenger trains almost exclusively.

As freight yards must be on grade for the convenience of shippers as well as of the roads, and they are usually so located that expensive elevated or depressed tracks leading to them are not necessary. Expensive passenger stations in large cities are also an important factor in increasing construction costs. Fast passenger trains also require large expenditures on roadbed and bridges. The comfort as well as the safety of passengers requires that the track shall be carefully leveled and that it shall be aligned as accurately as possible. It must be heavily ballasted, with stone if possible, though cheaper and less cleanly material in less quantity might serve for freight. A bridge that would be sufficiently strong for a slow-moving, heavily-loaded freight train would be unsafe for a fast passenger train. Then, when once the road has been built, a proportion of maintenance of way expenditures out of proportion to passenger-train mileage is required to keep it up to the passenger-train standard. In this connection it may be pointed out that many roads are now incurring large expenses in the extension and improvement of their systems of block signals, primarily for the benefit of the passenger service, though the movement of freight will be facilitated also, and recent accidents have demonstrated that nothing should be done that will tend to retard this work on the many roads that would be hampered by any reduction in their present earnings.

Returning to the actual cost of moving trains, attention should be directed to a fact that is generally overlooked in popular discussions of passenger rates, and the full importance of which is not always appreciated even by railway operating and accounting

officials. This is that a part of the expenditures for the actual movement of freight trains are made necessary by the passenger traffic, and can properly be considered a part of the cost of that service. This is the cost of holding freight trains on sidings to await the passage of passenger trains. This is an important item on every road, but especially on a single-track line with heavy freight and passenger traffic moving in both directions. It varies, of course, on different roads and even on the same road at different seasons of the year.

To determine with approximate accuracy for a single road the relative mileage cost of freight and passenger trains would be a very difficult matter. To do it for the entire country is practically impossible, but, taking all factors into account, it is safe to say that the cost per mile of passenger trains is not materially less than the cost per mile of freight trains. It is probably fully as great. Unless, however, the cost is very materially less the passenger business of the country, considering all the roads as a single system, does not contribute a dollar to railway profits.

Not only have the railroads been compelled to increase the number of their passenger trains almost in proportion to the increase in the number of passengers carried, but the running of each train has become more expensive from year to year. Passengers would not tolerate the character of equipment in general use twenty years ago, and, without taking into consideration the advances in the cost of practically every kind of material entering into the construction of a passenger coach, the cost per coach has been greatly increased by the development of more convenient, comfortable, and luxurious coaches. The demand for speed has also called for the construction of larger and more powerful engines for the passenger service, and passenger engines to-day cost from $4,000 to $5,000 each more than a few years ago. One of the principal items of increased expense in railway operation has been the large advance in the rate of wages paid to every class of railway employees. In the freight service this has been neutralized to a certain extent by the increase in the average train load, but this could not be done in the passenger service. Bearing in mind the very slight increase in the passenger-train load and the very large increase in wages, including the advances made within the past few months on practically all the roads of the country, it is apparent that the number of units of passenger-train revenue required to pay the daily wages of a train crew has very largely increased.

In considering a proposition to fix a maximum passenger rate it must be remembered that, whatever rate may be fixed as the maximum, the average rate that can actually be charged will be materially less. There are several reasons for this. One of these is that wherever there are two or more roads between two points the maximum fare that can be charged on any one of them is the rate fixed by the shortest line. This line could not charge more than the legal maximum per mile, which would make the rates by the longer lines less than the legal maximum. Another reason is that the law contemplates, and long custom requires, the giving of reduced-rate tickets to certain classes of passengers, such as clergymen and charity passengers. It is also the general practice to put into effect reduced rates to expositions and fairs and to religious, fraternal, educational, business, and political gatherings. Especially low rates are also made for commutation tickets on suburban lines where the traffic is so dense that it can be carried at a rate per mile that would be ruinous if applied to the entire passenger business of a road. In addition to these low rates it is the uniform practice of the railroads to run cheap popular excursions at intervals, especially in the summer months, to afford people of moderate means an opportunity to visit seashore and mountain resorts and other points of interest. It will thus be seen that, under any circumstances, the average rate per mile must be somewhat less than the legal maximum, and that, if the roads are to continue their present liberal policy of giving reduced rates within the limits recognized by the Hepburn law as being proper, the average rate must be very considerably below the legal maximum. Taking everything into consideration, it may be doubted whether a cent and a half could be maintained as the average for the entire country if the legal maximum should be fixed at 2 cents a mile. As much of the passenger traffic is unprofitable at present rates, it is apparent that enforced reductions can not be carried far without bringing about the impairment of the service.

The CHAIRMAN. Mr. Boyd, are you ready to proceed now?

Mr. BOYD. Yes, sir.

The CHAIRMAN. Very well.

STATEMENT OF MR. GEORGE W. BOYD, GENERAL PASSENGER AGENT, PENNSYLVANIA RAILROAD.

Mr. Boyd. Mr. Chairman, the disastrous results that would follow the issue of an unlimited mileage ticket, such as is provided for in the Sherman bill, have been so well pointed out by the gentlemen who preceded me that I deem it unnecessary further to refer to them. It occurs to me, after careful thought, that there is no demand to-day from the people for such a ticket, and that it would be very unwise on the part of Congress by legal enactment to force such a ticket upon the railroads of the country.

I speak, now, more directly for the Pennsylvania Railroad, but in a general way also for the trunk lines of the Eastern territory. I can say to this committee in good faith that no form of ticket or rate or train arrangement is adopted by the Pennsylvania, and what I think is true in our case is also equally true in the case of all well-regulated companies—without first ascertaining whether such a rate or such a ticket or such a train will prove an additional accommodation to the traveling public.

I am frank to say that I believe that in serving the people we are serving the best interests we represent, namely, the railroads, and it is unfair to suppose that any well-regulated railroad in this country would be short sighted enough to introduce regulations that would be distasteful to the people and result in bad feeling and complaint against the management.

The duties and limitations of railroads are being defined by rulings of the Interstate Commerce Commission at this time. The tariffs of all railroads have been submitted to the Commission, and it is for the Commission to say whether such rates as we have filed are reasonable and accommodating and satisfactory and just to the people.

My thought is that it is not only not necessary but absolutely unwise and prejudicial to good government for Congress, as I said, to force upon the railroads at this time any further legislation tending to the reduction of rates or to the modification of our tariffs.

Mr. Bartlett. You mean railroad tariffs, of course? (Laughter.)

Mr. Boyd. Yes. It seems a flat passenger rate could not be adopted without very harmful results to many of the railroads, especially those in the South and in the West. I hope this committee will not imbibe the impression that, because the trains of the Pennsylvania Railroad are well filled day after day, our margin of profit is greater than that which is derived by other well-regulated railroads in other sections of the country. There is a constant demand on the part of the people for faster trains and more expensive accommodations, with a constant demand for reduction in rates, so that you will see that it is operating against the railroads of this country in both directions.

The Chairman. Mr. Boyd, would it interrupt you if I should ask you a question there?

Mr. Boyd. Not at all, sir.

The Chairman. Can you give this committee an idea of the added cost to your company of your train that makes the passage between New York and Chicago in 18 hours as compared with one that makes that journey in 26 hours?

Mr. Boyd. Well, Mr. Chairman, I beg to admit that I can not give you the exact figures.

The CHAIRMAN. Can you approximate it?

Mr. BOYD. I can. The average cost of running a modern railroad train between important centers on an accelerated schedule can not be placed lower than $16 per mile. The 18-hour trains were introduced by the Pennsylvania Railroad in the one case, and by the New York Central in the other, for the accommodation of the business interests of the Eastern and Western country. Bankers and merchants, and gentlemen representing other important interests, petitioned us from time to time for fast trains, permitting them to transact business during the day in New York, with a night journey to Chicago, and after a full business day in that city a return journey by night, enabling them to have a third business day in New York, so that the journey is made overnight.

The character of accommodations that are furnished is the highest and most expensive that could be produced. The average number of passengers carried on our train since it was inaugurated is, I think, about 40 per trip. There is added an additional cost on account of the speed, because in accomplishing that high rate of speed we must insure safety to the people, which is the first consideration on the part of any railroad in the country, and in doing that we sidetrack or shift from track to track many of our important passenger trains, as well as innumerable freight trains, which is a difficult, and in many ways an expensive thing to do; so that while this train is yielding a revenue, say, of $1.15 or $1.20 a mile, not exceeding that amount, and other trains on our line are yielding $2 and $2.50 per mile, yet we feel that the management of the road owes that accommodation to the best interests of the country, and we are providing it, not with any desire to secure an undue profit from the arrangement, but, as I say, to accommodate the different classes of travel that present themselves, at the lowest possible rate consistent with a reasonable margin of profit for our shareholders.

Now, I am myself, as a passenger man, thoroughly opposed to the idea of a flat rate anywhere in this country. I contend that the man who travels once a year, makes one trip per year, from Philadelphia to Pittsburg, or from Washington to New York, is not entitled to the same rates per mile as the man who travels three or four or five times a week; while the man who travels daily between two established points is entitled to a still lower rate than the man who travels three or four or five days a week.

The CHAIRMAN. Why?

Mr. BOYD. On the principle, I should say in the first place, of wholesale business; and then because the necessities of one man are greater than those of the others, and it would not be fair or equitable to charge the man who rode daily between Washington and Baltimore, for example, the same rate per mile as the man who rides twice a year from Washington to New York.

Mr. RICHARDSON. The same principle applies to freight. The man who ships a large quantity might claim that he should have a lower rate?

Mr. BOYD. That does not pertain to my department; and a man connected with a great railroad like the Pennsylvania, if he is fortunate enough to keep himself fully informed as to the responsibilities and duties of his own single department is doing well.

Mr. ADAMSON. Every community in this country, either urban or

rural, imposes a road tax upon everybody above the average age of 16 by law. Would you say that the man who used the highway oftener than another should pay more toward the maintenance of the highway or less?

Mr. BOYD. That is beyond my jurisdiction.

Mr. ADAMSON. That is an analagous case.

Mr. BOYD. Hardly, in my opinion.

Mr. MANN. A good deal has been said here, Mr. Boyd, about the extra expense of operating passenger trains and the maintenance of right of way of railways in the West as compared with those in the East. Your company is engaged in building a tunnel to connect New Jersey with New York, I believe?

Mr. BOYD. Yes, sir.

Mr. MANN. Will you ever be able to derive any income beyond the cost of maintenance from the passenger traffic on the charge that is made merely for the distance under the river, or will have to spread the cost over the entire road for maintaining it?

Mr. BOYD. I do not anticipate any advance of our rates beyond the mere mileage that will be added from our present New York or Jersey City terminals. We hope that the great increase of travel, not only from Washington and Baltimore and all points on our system but also from the West and South as well, to New York, and coming to New York also from the New England territory, will be so pronounced that it will yield an increased revenue sufficient to meet the interest on those investments.

Those tunnels are created for the better accommodation of the people, and when our line between Washington and New York, including the tunnel, is completed, we will give you gentlemen a train in four hours as against five hours, landing you up practically against the Waldorf-Astoria and the other hotels in New York, resulting, in my opinion, in a saving of from an hour to an hour and thirty minutes without any additional expense.

The CHAIRMAN. I wanted to ask you, Mr. Boyd, following out the idea suggested by the question of Mr. Mann, what will be the probable cost of that tunnel and of the new terminal in the city of New York now under process of construction?

Mr. BOYD. I am not competent to answer that question, Mr. Chairman; it belongs to the operating department.

The CHAIRMAN. It will cost $100,000,000, will it not?

Mr. BOYD. I presume it would probably reach or exceed that amount.

The CHAIRMAN. You have spoken of the increased facilities that you propose to give to gentlemen traveling from Washington to New York. Do you expect that the increased travel of persons who will use these extraordinary facilities will pay the added expense of this $100,000,000 and ultimately provide a sinking fund for the redemption of your bonds, or to you expect to extend that cost, or your reimbursement of that cost, over all the people that live within the territory of your whole system?

Mr. BOYD. I think I answered that when I said that, so far as my understanding went, there was to be no increase of cost to the people. We will depend upon the increased travel that comes from the great increase in population along the Atlantic seaboard as well as in the Western States, and my view is that there will be no additional charge for transportation between Washington, for instance, and New York.

Now, Mr Chairman, I am simply giving you this as my opinion. I have no warrant for saying so beyond my general understanding.

The CHAIRMAN. Before you leave this point let me ask you: You are a passenger man, familiar with the passenger business of that road?

Mr. BOYD. Yes, sir.

The CHAIRMAN. Taking into consideration the average contribution to your treasury of each passenger that goes into the city of New York that will use this line or the lines that will be affected by these improvements, how many millions of passengers, additional passengers, must you have in order to recoup this additional cost?

Mr. BOYD. I could not answer that question offhand. I have not given it any consideration or made any calculations on it.

The CHAIRMAN. Have they not entered into the estimates of the probable result of these improvements?

Mr. BOYD. Undoubtedly, Mr. Chairman; but these are questions handled by the executive department, and they are not brought down to the passenger department until the road is ready for operation.

The CHAIRMAN. But it is a truth, is it not, that those extraordinary facilities that you are furnishing now to that class of your passengers that visit the city of New York postpone the time indefinitely when you can lower your rates?

Mr. BOYD. Not necessarily.

The CHAIRMAN. These facilities that you contemplate, as compared with the facilities of to-day, I mean.

Mr. BOYD. Not any more than the expense of this great terminal in Washington will have the same effect, though in lesser degree.

The CHAIRMAN. It will have the same effect?

Mr. BOYD. I should say not.

The CHAIRMAN. Then your illustration does not illustrate.

Mr. BOYD. It illustrates to this extent, Mr. Chairman, if you will allow me, that these terminals are necessary to a certain extent for the accommodation of our travel as it exists to-day and as it existed four or five years ago. Our facilities have not been sufficient satisfactorily and properly to accommodate the people, and that must be evident to all of you gentlemen who have occasion to pass through our terminal in this city. Just on the principle that we spent $200,000,000 in revamping our line for the better accommodation of our traffic, so these terminals are not only necessary for the travel that we will handle four or five years, or ten years, hence, but they are absolutely necessary for the proper handling of it to-day, and Mr. Cassatt——

The CHAIRMAN. Right there, is it not true that by the methods you are adopting for the accommodation, say, of a certain few of your passengers, you are compelling the man who will never use these facilities at all to aid in the payment for it?

Mr. BOYD. I do not say that. I do not understand——

The CHAIRMAN. That is to say, as to the man living on some of your branches that never uses these facilities at all, and never expects to—you are keeping up a rate on him which, but for these extraordinary expenses, you might reduce.

Mr. BOYD. I can not see it in that way.

The CHAIRMAN. It will cost your company, to say nothing of any other branch of the matter, four or five million dollars a year to pay

the interest on the bonds that will make possible these improvements, will it not?

Mr. BOYD. I presume it will.

The CHAIRMAN. Now, if you retain your facilities as they are now, it would be practicable for you to reduce your passenger rates $5,000,000, say, would it not, and in that way confer a benefit on all those who are patrons of your road?

Mr. BOYD. I should not like to subscribe to such an idea or such a condition. It might be true on the principle that a woman who likes to use calico instead of silk is quite as well accommodated with calico as she would be with silk——

The CHAIRMAN. I doubt if that is a fair illustration. Probably a fair illustration would be that the woman who would wear a silk dress that cost her $1.50 would scarcely be justified in buying one that would cost her $5 a yard.

Mr. BOYD. Dealing with the people, as I am constantly, I am firmly of the opinion that larger and better accommodations are more in demand than a reduction in our traiff of rates. No fair-minded man in this country, in my opinion, will hesitate to pay what he desires if the railroad gives him what he pays for, and we have so regulated our rates that the various classes of travel presenting themselves are properly and equitably, and in my opinion, entirely, accommodated by them. Our arrangement of rates is entirely satisfactory to the people accommodated by the Pennsylvania Railroad who are good enough to give us their patronage.

The demand for accommodations and terminals in these great cities are just as necessary as one-hundred-pound steel rails and stone-ballasted lines are between important centers, and the railroad company that fails to provide them fails to provide for the accommodation of the people and for its own good, present and future. They are absolutely necessary, in my opinion.

Mr. MANN. What is your schedule of rates based upon now?

Mr. BOYD. Since November 1, of the past year, our local rate universally is 2½ cents a mile over the system east of Pittsburg, under my control as general passenger agent, 5,200 miles of main line.

The CHAIRMAN. That is a flat rate, then?

Mr. BOYD. That is a flat rate of 2½ cents a mile. In addition to that, we sell excursion tickets between all coast points at a rate of 2 cents a mile, as a rule, and in some cases as low as 1½ cents a mile; 1½ cents, and as low as 1 cent a mile, between Philadelphia and the summer resorts on the coast.

Mr. MANN. Are they regular excursion tickets or periodical?

Mr. BOYD. They are regular, sold during the year, bearing a return coupon good within fifteen days.

In addition, we sell what is known as winter excursion tickets to all these resorts based upon a slight fraction of advance from that, possibly less than 2 cents a mile. But in addition to these two forms of tickets we sell a mileage ticket good for one year from the date of issue, and good for the use of anyone presenting it, and good for any number of people within the 1,000 miles, and good over our entire system, at 2 cents a mile.

Mr. MANN. East of Pittsburg?

Mr. BOYD. Yes, sir.

Mr. STEVENS. That was recently established, was it not?

Mr. BOYD. Yes. We had a somewhat different form of ticket in effect prior to September 1 of last year. This form of ticket is a most accommodating form of ticket when issued locally over one system, and I am entirely frank and honest in saying that I do not believe there is any perceptible demand for a ticket good beyond certain limitations.

Now, under our rules a man who holds a mileage ticket good in the territory east of Pittsburg and who holds a second ticket over the lines west of Pittsburg, up to and including Chicago and St. Louis and Cincinnati, has the privilege of buying through sleeping-car accommodations and checking his baggage through; and in order to determine what number of people per day and per week and per month are taking advantage of that arrangement, showing the use of these tickets between the two territories, we have been keeping a record since September 1, and I think probably not exceeding 10 passengers a month avail themselves of the through arrangement between the two associations, each having the benefit of a 2-cent rate.

Mr. MANN. Do you have the 2-cent rate west of Pittsburg?

Mr. BOYD. Yes; the Central Traffic Association has a similar rate.

Mr. BURKE. What is the average rate of fare received in that portion of the road that is under your jurisdiction, Mr. Boyd?

Mr. BOYD. Well, for 1905 it was a cent and nine mills; less than 2 cents a mile.

Mr. KENNEDY. What harm would accrue to the Pennsylvania Railroad Company if a 2-cent rate were made and the power on the part of the company to discriminate between passengers was taken from them and they would have to treat all alike and take a 2-cent rate?

Mr. BOYD. We would be the gainer by it. Two cents a mile flat rate would not be objectionable to the Pennsylvania management if we could apply that to all our business, because it would yield us more than the present arrangement of our rates.

Mr. MANN. But when you figure out a cent and nine mills per mile you take into account competition?

Mr. BOYD. Yes, and everything.

Mr. MANN. Of course you would not get from your ordinary local business 2 cents a mile.

Mr. BOYD. The man who pays 2½ cents a mile for a ticket, say, from Philadelphia to Harrisburg, making the journey perhaps once a year, makes no objection about it, and probably feels that he has had a good return for what is charged.

Mr. MANN. Everybody who rides on the Pennsylvania road feels that way.

Mr. BOYD. Thank you, sir.

The CHAIRMAN. Do you feel that the absence of a protest when a man buys a ticket at one of your offices constitutes an expression of approval of the price of the ticket? In other words, do you consider that when a man makes no complaint, that is an approval or indorsement of the rate, or is he influenced sometimes by the fact that he knows you gentlemen are obdurate, and that his protest would be unavailing?

Mr. BOYD. I do not think we have any well-regulated citizen within the limits of our State who has such an impression about the management of the Pennsylvania Railroad, because our management, within the last——

The CHAIRMAN. I mean obdurate as to dealing with individuals.

Mr. Boyd. There have been no petitions, no signatures, from committees or citizens in regard to the passenger business that have not always received respectful and considerate attention at the hands of our officers; and instead of trying to find ways not to comply with such requests, we endeavor in every way that is possible to meet them, as I said before, consistent with an equitable percentage of profit to our shareholders.

Mr. Stevens. Did you not read some years ago of petitions of citizens who dealt with your line, protesting about the amount of money they had tied up in mileage books with your road?

Mr. Boyd. Yes, I believe there was a petition of that kind. It was sent in by what is called the Commercial Travelers' Association, forming a very meager percentage of the passenger-carrying business of any railroad.

Mr. Kennedy. Do you know of any other association or class of people that associate together to travel habitually?

Mr. Boyd. I do not, except the representatives of business firms. I would like to say that no difference what rate is made by railroads or by legal enactment, if they applied to people generally, they will not be satisfactory to the commercial travelers' associations of this country; and as confirming that, I wish to say to the committee that after the Ohio law became effective and the flat rate of 2 cents a mile was applied, the Travelers' Association of that State petitioned the railroads operating under what is known as the Central Traffic Association for a rate of 1½ cents a mile for their mileage tickets, claiming that as the people generally are charged only 2 cents a mile, they, the commercial travelers, ought to have a rate of one-half cent a mile less; and I assume that if the rate should go to a cent a mile they would still feel that they ought to have a corresponding reduction.

The Chairman. That is on your idea of wholesale business?

Mr. Boyd. Those men are treated by us and appear to us as individuals, and not as an organization. They do not as an organization contribute to the patronage of any one line of railroad, and they do not as an organization conform to the well-established rules that govern the issue of mileage tickets.

Mr. Mann. Don't you think the system abolished in September last was very objectionable, on reasonable grounds, to those people who traveled over your road?

Mr. Boyd. I think to some extent, but it was over a number of roads. The interchangeable mileage book was introduced by us and by other lines at the request of commercial bodies and travelers' associations.

Mr. Adamson. Have you now abandoned that $10 arrangement that they objected to?

Mr. Boyd. We still sell an interchangeable ticket with a rebate of $5, because our local rates are now two and one-half cents instead of three cents.

Mr. Adamson. They objected to tying up $10?

Mr. Boyd. When that system was originally introduced it was looked upon as an accommodation to these people, and just what they wanted; and it accommodates them to-day, because they use it over seven different lines, and they are largely the people who travel from one railroad to another, and they have the benefit of a 2-cents-a-mile rate on the Erie Railroad, whereas if they bought a ticket over there it would be 2½ cents a mile. But that ticket was introduced

after great difficulty on the part of the Pennsylvania road in bringing the other lines into cooperation, for the benefit of that very class of people.

Now, last year, when it was very evident that the interstate commerce law should become a law and the issue of passes would be prohibited or largely curtailed, and when our management in its wisdom decided to make that arrangement effective January 1, 1905, the minute passes were withdrawn, not only the commercial travelers took advantage of the agitation that followed throughout the press, who themselves petitioned for a lower rate than existed at that time for members of their staff, but also other people, noting the conditions that we are concerned with in our efforts to be good, law-abiding citizens, urged that we should withdraw our restrictions on the interchangeable tickets, and that we should issue a mileage ticket good until used, and for anybody.

Now, I will say very frankly that it has always been the policy of the Pennsylvania Road, as I understood it, to lower its rates from time to time, in accordance with the great or proper increase of traffic, in order that we might earn for our shareholders the same proportionate percentage of profit, and we have reduced our rates from time to time until when the interstate commerce law became effective it was only necessary for us to file our tariffs, because our system of rates was in entire harmony with the letter and spirit of that law. But this great agitation against railroads which has been sweeping the country for the last two years will spend itself in time, and in my opinion it is very unjust and has brought very unjust results to many of the railroads less fortunate than the Pennsylvania.

But I think that that interchangeable ticket was most accommodating and proper. However, the use of that ticket became so general under the new conditions that many people did object to having to sign their names on the train as an identification, and as a means of having the extra fare refunded, as an evidence of their good faith.

The CHAIRMAN. Mr. Boyd, the time for adjournment has arrived.

Mr. BOYD. Just a moment; I will not appear again. But out of deference to the wishes of the people we waived the point and introduced our present ticket. I think it is most accommodating, and will prove not only entirely satisfactory to the patrons of the Pennsylvania but to the patrons of other lines that have introduced it and will introduce it, but wili bring proper returns in revenue to the Pennsylvania Railroad.

Thereupon, at 12 o'clock noon, the committee adjourned.

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
HOUSE OF REPRESENTATIVES,
Washington, D. C., Monday, January 14, 1907.

The committee met this day at 10.45 o'clock a. m., Hon. William P. Hepburn in the chair.

The CHAIRMAN. The committee will be in order. Are there any gentlemen desiring to be heard this morning?

Mr. HERBERT. Mr. Chairman, Mr. Fairlamb, of the New York Central Railroad, was to be here this morning, and we are still looking for him. Senator Faulkner was to have been here to-day, also, but he had to go to court to try a case, and for that reason he is not here. The agent of the Southern, his assistant, Mr. Wall, has come until Mr.

Faulkner shall have appeared. I do not know why Mr. Fairlamb is not here. We are still looking for him.

While I am up, I want to say that the witness for the Seaboard Air Line, Mr. Ryan—the Seaboard Air Line is my client—did not come to-day, because it was supposed he would not be reached. I would like to make an appointment for him and telegraph him to-day to be here to-morrow. He is a very busy man and can not take up any more time than is necessary. We do not seem to be ready with anybody just now until Mr. Fairlamb does come.

Mr. BURKE. Judge Payson has not finished yet.

Mr. HARDWICK. Senator Faulkner's secretary has heard that the Senator is in the building and he has gone to find out if he has heard anything more of Mr. Fairlamb. It was arranged that Mr. Fairlamb would appear this morning, and then it was understood that the representatives who are in Washington would come on after the representatives who have come from a distance. Therefore I did not myself come prepared to speak. I could be prepared at any time after this, but Mr. Fairlamb, of the New York Central, is such a very important witness that we are desirous of having his testimony or argument, as it may be, precede that which may be offered by the others. If the committee will just wait a little minute, I think Senator Faulkner will be here. Perhaps he may have heard from Mr. Fairlamb.

The CHAIRMAN. Well, the committee, as you have observed, has been quite assiduous and solicitous to have this hearing go on. We have been having sometimes two or three hearings a day, and almost every day, and we have a good many things before us. You gentlemen will either have to go on or we will have to conclude the hearing. We have given you a good deal of time, and it seems to me you might have reciprocated our anxiety to proceed by having your people here.

Mr. HARDWICK. We do appreciate that, Mr. Chairman, and we are very greatly obliged. As I say, I spoke personally to Mr. Fairlamb the last thing on leaving here the other day and he promised to be here this morning. I myself am simply a witness. I have not heard from Mr. Fairlamb, but I presume Senator Faulkner has heard.

The CHAIRMAN. Is there any gentleman who wants to proceed this morning?

Mr. PAYSON. Under the intimation which the Chairman has just made I will say that, out of courtesy, if any gentleman desires to occupy the time I will wait. I have been good-natured about this business all the way through, I think; but feeling, Mr. Chairman, that what I have to say about the subject is not entirely without interest, I will go on.

The CHAIRMAN. Proceed.

STATEMENT OF MR. LEWIS E. PAYSON—Continued.

Mr. PAYSON. Mr. Chairman and gentlemen of the committee, you will remember, I hope, that when I was interrupted the last time I had arrived at that stage of the suggestions that I was making where I ventured to observe that the first great factor in the question of rate-making to be considered by the rate-making power was the question of density of population. The Supreme Court in a number of cases has said that density of population was one of the important factors in determining what a reasonable passenger rate should be. That is expressly averred in Smith *v.* Ames, in 169 U. S.

Bearing upon that same question, I read from Beale & Wyman's "Railroad Rate Regulation," which is a standard authority on the question involved here, section 459:

459. *Divisions in sparsely populated territory.*—It is clear that where a division of a railroad runs through a sparsely populated country, so that the amount of business done upon it is comparatively small, and the net earnings are therefore much below the average of the whole road, the charges may be greater than the charges on the other parts of the road. This was discussed in the case of Ames *v.* Union Pacific Railway by Mr. Justice Brewer: "It is, however, urged by the defendants that, in the general tariffs of these companies, there is an inequality; that the rates in Nebraska are higher than those in adjoining States, and that the reduction by House Roll 33 simply establishes an equality between Nebraska and the other States through which the roads run. The question is asked, Are not the people of Nebraska entitled to as cheap rates as the people of Iowa? Of course, relatively, they are. That is, the roads may not discriminate against the people of any one State, but they are not necessarily bound to give absolutely the same rates to the people of all the States; for the kind and amount of business and the cost thereof are factors which determine largely the question of rates, and those vary in the several States. The volume of business in one State may be greater per mile, while the cost of construction and of maintenance is less. Hence, to enforce the same rate in both States might result in one in great injustice, while in the other it would be only reasonable and fair.

"Comparisons, therefore, between the rates of two States are of little value, unless all the elements that enter into the problem are presented. It may be true, as testified by some of the witnesses, that the existing local rates in Nebraska are 40 per cent higher than similar rates in the State of Iowa. But it is also true that the mileage earnings in Iowa are greater than in Nebraska. In Iowa there are 230 people to each mile of railroad, while in Nebraska there are but 190; and, as a general rule, the more people there are the more business there is. Hence a mere difference between the rates in two States is of comparatively little significance."

This same line of argument was pithily put by Mr. Justice Canty in Steenerson *v.* Great Northern Railway, when he asked: "Why should the people of Minnesota and eastern Dakota be made to pay an income on this idle railroad property further west?" And in Wellman *v.* Chicago and Grand Trunk Railway Mr. Justice Morse said: "A classification according to the amount of business done per mile seems to me to be the fairest and most reasonable classification, if railroads are to be classed at all, in the fixing of the maximum rates."

In case after case it has been held that density of population corresponds closely with density of travel.

Now, density of population by square mile, by comparison, in the territory in which the Union Pacific and the Southern Pacific systems are operated and in the older sections of the Union, is important, I think, and it may be said to be this, taken from the census of 1902, that the average population per square mile in the Eastern and Middle States is: In New York 160, Massachusetts 370, Connecticut 97, Rhode Island 431, Pennsylvania 147, New Jersey 268, Ohio 105, and Illinois 91.

Going now to the section of country where my own roads are operated, the population per square mile in 1903 in Kansas was 18, Nebraska 14, Colorado 5, Utah 3, Nevada 4, California 10, Idaho 2 plus, Washington 9, Arizona 1 and a fraction, New Mexico 2 and a fraction, Texas 12, and Louisiana 32.

That is to say, Massachusetts is 33 times as dense as Texas, 7 times more dense than Iowa and Michigan, 4 times more dense than Illinois, and three times more dense than Ohio; and yet 3 cents per mile is allowed by law in Massachusetts, as it is in New York, Connecticut, New Jersey, and Pennsylvania.

I have a table here showing the density of population generally, which, without taking up the time to read, I will ask leave to insert. It is from a pamphlet that is recognized as an authority everywhere, and I will ask leave to insert it, digesting from it the figures I have given here:

RAILWAYS AND POPULATION IN THE SEVERAL STATES.

If, as has been shown, the population density of Europe with its potentialities for remunerative passenger traffic averages five and one-half times greater than in the United States as a whole, the contrast as to particular localities is emphasized in the following table, showing the several proportions for the individual States of the Union:

Density of population and railway mileage per capita in the United States.

	Area (land), square miles.	Population, 1903 (thousands).	Population per square mile.	Railway mileage, 1904.	Miles of railway.	
					Per 100 square miles.	Per 10,000 inhabitants.
Alabama	51,540	1,923	37	4,627	9.0	24.1
Arizona	112,920	133	1	1,363	1.2	102.4
Arkansas	53,045	1,366	26	4,051	7.6	29.6
California	155,980	1,564	10	6,255	4.0	40.0
Colorado	103,645	574	5	4,959	4.8	86.4
Connecticut	4,845	956	97	1,017	21.0	10.6
Delaware	1,960	189	96	301	15.4	16.0
District of Columbia	60	293	4,663	31	51.6	1.1
Florida	54,240	566	10	3,534	6.5	62.4
Georgia	58,980	2,336	39	6,197	10.5	26.5
Idaho	84,290	183	2	1,461	1.7	79.8
Illinois	56,000	5,117	91	11,609	20.7	22.7
Indiana	35,910	2,614	73	6,910	19.2	26.4
Indian Territory	31,000	455	14	2,532	8.2	55.6
Iowa	55,475	2,338	42	9,854	17.7	42.2
Kansas	81,700	1,469	18	8,811	10.8	59.9
Kentucky	40,000	2,230	55	3,242	8.1	14.5
Louisiana	45,420	1,460	32	3,806	8.4	26.1
Maine	29,895	702	23	1,964	6.6	26.0
Maryland	9,860	1,231	125	1,371	13.9	11.1
Massachusetts	8,040	2,974	370	2,118	26.5	7.1
Michigan	57,430	2,510	43	8,582	14.9	34.2
Minnesota	79,205	1,857	23	7,741	9.8	41.7
Mississippi	46,340	1,629	35	3,456	7.5	21.2
Missouri	68,735	3,227	47	7,707	11.2	23.9
Montana	145,310	277	2	3,260	2.2	117.9
Nebraska	76,840	1,098	14	5,820	7.6	53.0
Nevada	109,740	40	.4	986	.9	246.5
New Hampshire	9,005	422	47	1,275	14.2	30.2
New Jersey	7,525	2,016	268	2,259	30.0	11.2
New Mexico	122,460	205	2	2,504	2.0	122.1
New York	47,620	7,659	160	8,297	17.7	10.8
North Carolina	48,580	1,976	40	3,956	8.1	20.0
North Dakota	70,195	357	5	3,190	4.5	89.3
Ohio	40,760	4,302	105	9,128	22.4	21.2
Oklahoma	38,830	495	13	2,611	6.7	52.7
Oregon	94,560	437	5	1,736	1.8	39.7
Pennsylvania	44,985	6,606	147	10,933	24.3	16.5
Rhode Island	1,053	454	431	211	20.1	4.6
South Carolina	30,170	1,397	46	3,143	10.4	22.5
South Dakota	76,850	443	6	3,047	4.0	68.8
Tennessee	41,750	2,095	50	3,480	8.0	16.1
Texas	262,290	3,285	12	11,823	4.5	35.9
Utah	82,190	295	3	1,761	2.1	59.7
Vermont	9,135	347	38	1,063	11.6	30.6
Virginia	40,125	1,919	48	3,828	9.5	19.9
Washington	66,880	581	9	3,298	4.9	56.7
West Virginia	24,645	1,021	41	2,765	11.2	27.1
Wisconsin	54,450	2,155	40	7,043	12.9	32.7
Wyoming	97,575	101	1	1,247	1.3	123.4
Total [a]	2,970,230	79,900	27	212,577	7.1	26.6

[a] Includes odd hundreds and decimals.

And in that connection, inasmuch as it is taken from authorities, this comparison of figures is important—a comparison of passenger mileage of each mile of road in 1904: New England had for each mile of road within its limits a passenger mileage of 242,363; the Middle States, 163,107; the Southern portion of the Union, 34,236; the Northwest portion of the Union, but not including the extreme West, 28,979; the extreme West and the Southwest, covered by the systems which I represent before you, had 15,800 passenger mileage travel.

Now the comparison between 15,000 and 242,000 gives the relative difference between the sections of country which I represent and that in the extreme East; and the point, Mr. Chairman, that I am emphasizing here is that a flat blanket rate, no matter what the amount is, that is just in the Eastern portion of the country, is absolutely unequal and absolutely unjust, if not ruinous, to the sections of the country in which the roads I represent are operated.

The CHAIRMAN. Let me ask you if the comparison you have made would be valuable unless you also gave the average length of the journey?

Mr. PAYSON. Only as a factor, Mr. Chairman; because, as I shall attempt to demonstrate, all these figures have to be taken into account necessarily, not only as to the amount of travel, but in connection with that, the cost of operation. The rule and experience is universal, that wherever there is a large increase of travel there is an increase in demand for additional facilities, additional trains, and additional expenses of all kinds; so that, strange as it may seem, notwithstanding the travel may have doubled or trebled in some sections of the Union in the last ten or fifteen years, the expenses of operation, because of demands to furnish increased facilities, have substantially kept pace with the increase of travel. But it is only essential or simply essential as showing that this, with other factors, must be considered.

Coming down to the point which I shall insist upon throughout these observations, that it is an act absolutely impracticable, and an act of absolute impossibility, and an act of injustice, to undertake to treat the railroads of this country as a whole in fixing a reasonable maximum rate of fare——

Mr. RICHARDSON. Your argument is all toward the propriety of fixing of a flat rate for all sections of the country without regard to the density of traffic or population or anything else?

Mr. PAYSON. Yes; especially as showing, Mr. Richardson, the necessity of taking these matters into consideration in determining what a reasonable rate may be.

Mr. RICHARDSON. I do not know what the tendency of the committee is on that subject of the flat rate, but I, as one of the committee, would like to hear you discuss, when you present such a strong view from your standpoint—I would like you to discuss some process or method by which a fair rate could be applied to different sections.

Mr. PAYSON. That will be my pleasure to do at a later stage. But to refer to it now would be only anticipating what I shall elaborate later on.

Mr. KENNEDY. A consideration of this argument of density should consider also the relative number of roads that supply the sections, and the fact that patronage of the people in certain sections is divided up among certain roads.

Mr. PAYSON. Yes, I give that. All those factors, Mr. Kennedy, should be considered, and I shall come to them presently.

Mr. TOWNSEND. Is it possible for you to determine what the average now is for the extreme West and Southwest?

Mr. PAYSON. I have no such figures. I am not an operating man. But I will say for the benefit of the committee that as to undertaking to deal with the proposition of averages and apportioning passenger traffic in its relation to the freight traffic in order to determine the net earnings as to each, our company quit in 1892 undertaking to do that,

precisely as the Interstate Commerce Commission quit doing it, for reasons that I shall give you a little later on. They found it was practically an impossibility to act with accuracy; that the figures were oftentimes misleading; that nothing was so unreliable as the determining of railroad averages from the rates received, because included in the problem were the matter of excursion rates and other things of that kind; and the Interstate Commerce Commission have not taken it up since, and our people have not done it, and therefore I am not prepared to give the committee any figures from printed matter as to that. And I will say that our passenger manager, Mr. Fee, than whom there is not a more able passenger manager in the Union, desired to come from San Francisco before this committee and give his views and figures, but I telegraphed to him that there was no necessity of his coming, because other western roads would be here, western roads as well as eastern roads, and the testimony of each man would be only cumulative on the propositions advanced here. I am not prepared to give figures as to the average rate per mile——

Mr. TOWNSEND. Are you prepared to assent to the proposition that a rate might be so high in any section of the country as to absolutely discourage earnings—that it would lessen rather than increase the earnings of the road?

Mr. PAYSON. Undoubtedly—undoubtedly. I think that is an important suggestion, because, undoubtedly, Mr. Chairman and gentlemen of the committee, the same rule applies to the question of passenger traffic that applies to a customs-tariff system. There is a point known to those dealing in economics as the "revenue point," and if you get it at that point or about that point you get more money out of tariff revenues than by any other rate, but by lowering it you increase importations but get less revenue, and by raising it higher you do not get so much money because of decreased importation.

Undoubtedly the railroad companies are actuated by motives of self-interest in fixing their rates, so that they can get their utmost out of what they have by encouraging travel, by affording additional facilities and cheaper rates whenever it can be done. It is perfectly obvious in that regard, Mr. Chairman, when you stop to think of the immense amount of money that is being expended at this very hour in giving additional terminal facilities. For what reason is this immense depot being erected here in the city of Washington? Purely for passenger traffic. The amount of money expended on it will aggregate for the railroads something like six or seven million dollars, as I understand, and not a dollar of that money so expended can be attributed in any way, no matter how remotely, to the freight traffic on any of the roads occupying this station. Six million dollars in round figures, say, will be invested. Why? The people demand the best accommodations they can get, and the railroads feel it is to their interest to do it. While it is mortgaging the future, and no man can predict the time when, out of the additional earnings of the road, this building will ever be paid for, it will be mortgaged for this generation and the next, and they will be looked to to get out of the increased patronage to come the interest there, to say nothing of the principal; yet, nevertheless, it is provided.

It was said before the committee the day before yesterday that of the immense amount of money expended in terminals in New York not a dollar of that money can be attributed to the freight transporta-

tion of the Pennsylvania Railroad system. Yet $100,000,000 is being poured in there—to do what? To accommodate the increased demands of the people for the best accommodations they can get.

Mr. BARTLETT. In making a comparison of the density of population you have only made a comparison of the country covered by your own lines as compared with the others?

Mr. PAYSON. Yes.

Mr. BARTLETT. The other information as to other lines is accessible?

Mr. PAYSON. It is. As a corollary to what I said, Mr. Chairman, it seems to me perfectly plain that if a flat 2 cents a-mile rate is justified on the most-favored road in the Union, it would be rank injustice to impose it upon the lines of road which I represent. In no feature or factor of road making is there any comparison of equality whatever between the systems I represent here and the systems in New York State and the East. As to the matter of original cost, I hinted at that the other day. It is a matter of common knowledge. Take the extreme West, say, for example, the line to Portland, over the Central Pacific; and the road from San Francisco to Los Angeles. The original cost of construction is simply appalling. It is a matter of common knowledge. Take the case of the Central Pacific through the Sierras. The grades are enormous. An engine has to be now at each side to assist in pulling the train up each side. Long and expensive tunnels have been constructed, and the maintenance of snow sheds is required. The cost more than exceeds the cost of construction of some railroads in the Lower Mississippi Valley. I do not go into details with this, Mr. Chairman, to burden the committee with them, because it is a matter of common knowledge, and the knowledge of the situation is exactly equivalent to a demonstration by figures. It could not be made plainer to this committee by figures than by the statement I make to the committee, and as to each statement it is a matter of common knowledge.

The CHAIRMAN. Before you get through, Judge, I wish you would give us your opinion as to the power of Congress to enact a bill by which a series of zones could be established and different rates required or exacted in those different zones.

Mr. PAYSON. I can give that, Mr. Chairman, in a word. I am bound to be, even if I say so of myself in this presence, entirely frank with the committee in what I say. I do not know whether the other gentlemen representing the other systems will agree with me on this proposition or not—they have not done so in the past, and probably will not in the future, and that is one of the possibilities of the future—but I have no doubt, and I concede it as against the corporations I represent, that Congress has absolute power in that regard; as absolute and unlimited as the Parliament of Great Britain. It is not restricted in this matter of regulation as to passengers or freight by anything except one thing, one consideration, and that is that whatever rate you do fix shall stand the test of being a reasonable rate for the service rendered, whenever the crucial time shall come to test it. Up to that time Congress can do what it pleases, in my judgment; but I am here to say that it ought not to be pleased to do anything that is not right. But fixing of zones is only one way of classification, and if the conditions are substantially similar as to all the roads, classification in that way may be made by the rate-making power.

Mr. TOWNSEND. Do you mean by that that Congress could fix a rate for one road between New York and the Mississippi Valley and on another road, similarly situated, a different rate?

Mr. PAYSON. Yes; I think Congress would have the power in the first instance to do that, but it would be subject to the review of the courts; and then would be determined what Congress ought to have determined in the first instance, whether the conditions of the two roads were such that there should be identity or similarity of action, and if not, the rate would be overturned. So far as the question of power is concerned, I have no doubt about the power.

Mr. TOWNSEND. I said they were similarly situated. Could they fix a different rate in that case?

Mr. PAYSON. Yes; but subject, as I say, to the right on the part of the road ill favored or ill treated to receive a reasonable rate for the service which it rendered.

The CHAIRMAN. And if it was reasonable, although it created inequality?

Mr. PAYSON. With some other roads, yes. Of course Congress would have the power, as I think.

Mr. KENNEDY. And the lower rate would actually prevail on both roads?

Mr. PAYSON. Oh, that is another proposition. I am addressing myself now to Mr. Townsend's inquiry as to the question of power. The question of policy is a different matter.

Mr. RICHARDSON. Suppose you take different rates for different sections and different zones and different roads. How would you get rid of the matter of joint traffic among or between them?

Mr. PAYSON. I would not do the first thing you have suggested. I am coming presently, at a later stage of these observations, to a consideration of the impolicy and impropriety of the undertaking on the part of Congress to fix these things, because there is a better method of doing it, as I shall point out later on.

Mr. BARTLETT. What do you say as to the power of Congress in interstate matters to force your road, for example, or the Pennsylvania road, to redeem a two-thousand or one-thousand mile ticket issued by another road?

Mr. PAYSON. In your absence the last time but one when I had the floor I showed, first, that such a thing could not be done, and I gave citations of decided cases in support of that proposition; that you can not force contractual relations between one road and another road in the absence of an agreement between themselves.

Mr. BARTLETT. That was in the discussion of the statute of a State. The State has no right to regulate interstate commerce. That was rather a violation of the charter, and that would require a man to do something without due process of law. I read that case in 106 Massachusetts after you referred to it. Just now I did not ask you about the State power. I asked you about the power of Congress in exercising its power under the Constitution to regulate interstate commerce.

Mr. PAYSON. I can answer it in a word, there, Mr. Bartlett, and my answer is this: That as to the power of Congress over interstate commerce, it is practically unlimited, but still subject only to the limitation that the Constitution provides. The power of the State over the State commerce is equally as broad, and the State may do with

State commerce anything that Congress may do with reference to interstate commerce.

Mr. BARTLETT. The State would not have the right to impair the obligations of that contract; but the Congress of the United States, irrespective of the fact that there was guaranteed in the charter granted by the State the right to make certain rates and regulations, could, in its regulation of interstate commerce, pass a law which would violate the State charter.

Mr. PAYSON. What I said the other day is in the record, and I do not think I could improve upon it by repetition.

The CHAIRMAN. Judge, you just said that Congress had no power to impose contractual relations upon railroad companies. Do you insist that that doctrine would go to the extent of denying the power of Congress to impose the duty of joint rates—a joint rate between connecting roads?

Mr. PAYSON. Not at all, sir; because that last proposition of yours comes at once to the proposition that what you are suggesting, Mr. Chairman, is simply a regulation of interstate commerce, and when the interstate commerce begins—that is to say, when any two railroads interchange traffic or accept freight upon one line, or passengers upon one line, to be transported by another line upon through bills of lading or through tickets—then they themselves establish such a contractual relation that Congress may come in and regulate it. Do I make myself understood?

The CHAIRMAN. Yes; but suppose they have not voluntarily gone into those relations, what then?

Mr. PAYSON. Then I think Congress is absolutely powerless, because there is no interstate commerce in it, if they have not entered into those relations.

The books lay down the doctrine that until there is commerce to be transported from one State to another, and it is received for transportation from one State to another, there is no interstate commerce. I take it to be perfectly clear that an independent railroad company in one State and an independent railroad company in another State having a union station, one company, A, may refuse to take freight from B if it chooses to do so.

Mr. KENNEDY. No; but it can not.

Mr. PAYSON. I am talking about what the law is, in the first instance. You can not compel a railroad to carry freight to be delivered to and be carried upon another road if it does not want to do so. The authorities are all that way. But, Mr. Chairman, do not let us be diverted now from the main question here, because I do not regard for the purposes of the argument I am making any questions now being commented upon in these colloquies as bearing upon these bills at all.

Mr. ADAMSON. Your position is that until the railroads voluntarily enter into interstate commerce, then, and only then, Congress has anything to do with it?

Mr. PAYSON. Yes; then Congress can deal with it, subject only to the proposition that property can not be taken without due process of law and that reasonable compensation shall be received for the service rendered.

Mr. RICHARDSON. What becomes, then, of that doctrine that the

railroad, being a common carrier, if it refuses, we will say, to transport or ship to another railroad certain property or produce, can be made to do that by law?

Mr. PAYSON. In the case I am supposing it is not a common carrier outside the limits in which it is supposed to act or chartered to act. Say, take the Chicago and Alton Railroad—that is, the original Chicago and Alton Railroad Company—I was connected with the legal department of that road, and it comes to my mind as an illustration. That road is entirely in Illinois. Suppose a shipper tenders it a package to be shipped into Missouri. Its lines end at East St. Louis, Ill., and it is only chartered to go to East St. Louis, and you can not compel it to take that parcel of freight beyond its own terminal; but for the convenience of the public it does enter into an arrangement with some other railroad on the other side of the river by which the freight can be taken to St. Joe, or elsewhere in Missouri, say. Now, as a common carrier its running obligations are simple to transport freight within the State of Illinois; but the broader responsibility comes whenever it undertakes by contract relation between itself and some connecting line of road to receive freight from the patrons in Illinois and convey it on a bill of lading to some point in Missouri. Then, when it undertakes that, it is in interstate commerce, the broader responsibility comes in, and it subjects itself to the controlling power of Congress in regulation as to what its charges shall be.

Mr. RICHARDSON. Then what becomes of this doctrine that a good many men adhere to, that by the consolidation of these different lines of railroad that have been chartered by different States the railroads consent to that sort of thing and surrender to a great extent their State charters by the consolidation?

Mr. PAYSON. Undoubtedly——

Mr. RICHARDSON. And that by the consolidation they lose the rights and privileges of simply confining the traffic to the limits of the State. What do you think of that?

Mr. PAYSON. That does not come up under this bill.

Mr. RICHARDSON. That applies to the railroad refusing to ship property.

Mr. PAYSON. The answer to that, Mr. Richardson, is that it is not a practical question, because no railroad in the Union does that. Every road in the country—from the shortest branch in the interior and in the mountains to the largest road in a thickly settled region—will take a box of freight consigned to anywhere and give a receipt for it. The question you raise is a purely academic question; in reality that question can not arise.

Mr. RICHARDSON. From your argument I take it that Congress does not have authority to enforce contractual relations between two railroads that did not want to do it, but would sit down and refuse to do it, and the intimation was that doing that would obstruct the enforcement of the law.

Mr. PAYSON. I say, broadly, Mr. Richardson, that the proposition is to compel one railroad to accept the tickets of another now, when their roads are not or may not be connected in interstate commerce. That is the precise question.

As I was saying, as to the roads I represent here, in no feature or factor of rate making is there any point of equality with the different

systems in the East. I have already adverted to the cost of construction. The cost of maintenance is another thing that must be taken into account and borne in mind in discussing these questions; and the cost of maintenance of the Central Pacific road, considering its enormous tunnel supervision and the snow-sheds which it is required to maintain, together with the remoteness of its section men and the points from which they have to be gathered—I say in the consideration of this question the expense of that road, for example, is immensely in excess of the expense of some of the eastern roads.

Then another thing: There is a large number of branch lines, as I illustrated by this little colored folder here the other day. It makes a great difference, Mr. Chairman, if you have, on the one hand, a system such as the main system between here and New York, or between New York and New Haven, and then, on the other hand, a lot of branch lines like these in this folder, some of them being only 10 miles in length and each requiring independent operation. All these things should be taken into account, and if there is no similarity in conditions there should be no similarity in charges.

Wherever the population is sparse the trains are necessarily light, though they are run at practically the same expense of moving. That is to say, using the illustration that I made here the other day, which was somewhat graphic, and yet not at all unusual, of the little line of railroad from Maricopa to Phoenix; it costs our company just as much to run that train with 2 paying passengers and 1 deadhead as it would cost it to have hauled 50 people. The difference in the expense of hauling would not have amounted to a dollar; it would have been absolutely inappreciable. The same conductor would have performed his duties precisely the same. The 1 brakeman would have answered just as well for 50 as for 2 paying passengers. Yet that is the experience all over that country. Sparsely settled as it is, the number of passengers per train is necessarily very light. I do not include in these tables here, Mr. Chairman, although I have them in my hand, the number of passengers per train in the East and in the Southwest and West of the roads spoken of previously by the gentlemen representing the Denver and Rio Grande, the Santa Fe, and the Louisville and Nashville; but it makes a great deal of difference.

The CHAIRMAN. You say that table was put in the record?

Mr. PAYSON. Yes, sir; it was put in by some gentleman who preceded me. But I will insert this if you wish, this table showing the number of passengers per train in different sections of the country. It shows that in some sections the average number of persons per train runs up to 70. I will insert that table.

The CHAIRMAN. What are they in the system which you represent?

Mr. PAYSON. The average number of passengers per train is about 7.

Mr. RYAN. That includes excursions?

Mr. PAYSON. I take it so. I have not analyzed the figures to that extent, but I assume that it includes excursion as well as other trains.

Now, Mr. Chairman, these bills propose a blanket rate of 2 cents a mile. There is not a State, except Ohio, where such a rate is fixed by law. Ohio is exceptionally situated, by uniformity of conditions, for uniformity of rates. The whole State is dotted over, fairly and

evenly, with good terminals. In Ohio there is an average of 105 people per square mile; 22.4 miles of railroad for every 100 square miles of area; a population of about 4,500,000.

Now, whether or not that rate is going to be fairly remunerative in Ohio is a fairly open question. I have asked some people connected with the management of railroads in Ohio as to how it is going to work.

Now, returning to the State of Ohio, of course it is a matter of railroad history that the attempt on the part of the legislature of Ohio to make a flat rate was the act passed in April, 1906, the attempt may be said to have been experimental. Of course the railroads resisted it, and all sorts of showings were made. The railroad people said it would be largely injurious and would reduce their earnings below operating expenses, and prove seriously injurious to their railroads if that proposition should become a law and be enforced. How it is going to operate no one knows yet, but they say to me that this is a good year or good season, in which there is unexampled prosperity on railroads. It will take a year or two of experience under the law to determine whether they can live under it or not.

But Ohio is the only State in the Union that has tried that experiment, and as I have indicated here in a brief way, it is one of those things where, as to State traffic, possibly the similarity of conditions over the State may be such as to justify placing the same blanket rate over the State as to State traffic. I am not personally acquainted with the situation near the Ohio River, but with the State farther north I am pretty well acquainted, and I repeat the State is singularly well fitted as to the trying of such a blanket rate. It may not be especially hard even upon the poorer roads in that locality. But, Mr. Chairman, I repeat that Ohio is the only State where that experiment has been attempted.

Where the people in the different States have taken up the question and fixed maximum rates of transportation, these are the figures, taking the States alphabetically, Mr. Chairman: The rate in Alabama, fixed by the railroad commission, is 3 cents a mile; in Arkansas it is 3 cents a mile by act of the legislature; in the State of California the rates as fixed by the State commission run from 3 to 10 cents per mile. The commission under the laws of California have the right to vary the rates, in their judgment, as they deem appropriate. On some of our roads they authorize us, on some branches in the mountains, to charge as high as 10 cents a mile. There are some independent lines there that charge as high as 10 cents. But these rates are fixed and are constantly revised by the State commission of California as a change of conditions shall justify a change in rates. It has sometimes happened, as the reports of the Railroad commission of California will show, that they have raised the rates, and allowed the companies to raise the rates, when it was apparent that the rates fixed theretofore were too low.

Mr. BARTLETT. How about Arkansas?

Mr. PAYSON. There the rate is 3 cents.

Mr. BARTLETT. Wasn't there a road from Malvern Hill to Hot Springs where they charged 10 cents?

Mr. PAYSON. I do not know. The figures here were furnished by the statistician of the Interstate Commerce Commission. These figures which I read now, as illustrating what the commissions do,

I have abstracted myself from the reports of the California State railroad commission.

On May 7, 1903, on the Central Pacific, the board allowed a higher rate than that which was being collected on the main line upon these branches—from Sacramento to Placerville, 59 miles; from Berendo to Raymond, 21 miles; from Fresno to Portersville, 69 miles; from Brooks to Valley Spring, 40 miles; from Stockton to Milton, 20 miles, and on one other branch, 11 miles. The rates were specially fixed on each different branch of the Central Pacific system; one of 7 cents, another 8 cents, another 4 cents, another 6½ cents, another 2 cents a mile. I had forgotten for the moment that we had any as high as 10 cents, but on the Nevada County Railroad system, only 22 miles in length, in northern California, the rate is 10 cents. Then from Visalia to Tulare, 11 miles, the rate is 5 cents, and from San Diego to Cuyamaca—an unpronounceable name—26 miles, the rate is 7 cents, and from Visalia to Yreka, 8 miles, the rate is 8 cents. This is the action of the State railroad commission of California.

Now, reverting again to the action of the Illinois State Commission. There the true system has been adopted. In Illinois the proper rate of fare and how to determine it had been a matter of discussion for many years. The question of railroad rates had been constantly discussed, and it perhaps had its origin in the fact that the Illinois Central, which was one of the pioneer roads in Illinois, was constructed largely with the aid of a liberal grant of land from Congress. It ran the entire length of the State of Illinois, from Dunleith to Cairo, with a branch from Centralia to Chicago. It got this great grant of land from Congress in aid of its construction. It was a road that was built at a fairly cheap rate for its day.

To give a little more fully the history of its inception I will say that there was a provision in the State charter that it should pay 7 per cent of its gross earnings to the State, but on account of the land grants and the comparatively inexpensive character of its construction it was a question every year whether the railroad was not charging too much, whether its rates were not too high, and it was a matter of discussion for years. Necessarily the subject was discussed from every possible standpoint, and it resulted in the State providing for the creation of a railroad commission, and that commission proceeded to make a classification of the roads. That classification I hold in my hand, and I need not stop to read it at length, but it gives the different lines of road, and in passing it is enough to say that the commission in its wisdom took all the roads in the State of Illinois and divided them into five different groups.

For the first group they allowed a charge of 3 cents a mile; for the second group, 2½ cents; for the third, three and one-fourth, four, 3⅓, 4, and 5 cents. The second group, at 2½ cents a mile, was the Lake Shore, the Michigan Central and the Pennsylvania; and you all know, of course, that they run a comparatively short distance in the State of Illinois, and their immense passenger traffic is made up from the fact that they are through lines from the West to the East. But these particular lines within the limits of Illinois were restricted to 2½ cents a mile. The first group, as I say, was allowed 3 cents a mile, and it includes the Chicago and Alton; the Chicago, Burlington and Quincy; the Chicago and Northwestern; the Chicago, Rock Island and Pacific; the Illinois Central; the Indiana, Bloomington

and Western; the Indianapolis and St. Louis; the Ohio and Mississippi; the Pittsburg, Cincinnati and St. Louis; the Wabash, and then running on down to some of the little coal roads.

This is the classification and rates.

[From the Report of the Illinois Railroad and Warehouse Commission, year ending November 30, 1879, pp. v, vi, vii.]

SCHEDULE OF REASONABLE MAXIMUM RATES.

An analysis of the returns shows an existing necessity for a revision of several of the schedules of reasonable maximum freight and passenger rates, prepared for the several railroad corporations of Illinois under the act of 1873 to prevent railroad extortions and unjust discriminations.

The schedules were prepared in 1874, since which time very material changes in the railroad business of the State have taken place.

In the preparation of the schedules the commissioners grouped the railroads into five groups. Into the first group, which may be called the standard group, were placed all the railroads doing about the same amount of business at about the same expense of operation, as follows (using the present names of the companies):

First group.—Chicago and Alton; Chicago, Burlington and Quincy; Chicago and Northwestern; Chicago, Rock Island and Pacific; Illinois Central; Indiana, Bloomington and Western; Indianapolis and St. Louis; Ohio and Mississippi; Pittsburg, Cincinnati and St. Louis; Wabash.

Into the second group were placed all the roads doing a greater business than the roads of the standard group, as follows:

Second group.—Lake Shore and Michigan Southern; Michigan Central; Pittsburg, Fort Wayne and Chicago.

The remaining roads were grouped according to the business being done by them at that time and the expenses they were necessarily at in doing such business, as follows (using the present names of the companies):

Third group.—Chicago and Eastern Illinois; Illinois and St. Louis; St. Louis, Alton and Terre Haute; Toledo, Peoria and Warsaw; Western Union.

Fourth group.—Peoria, Pekin and Jacksonville; Rock Island and Peoria; St. Louis, Rock Island and Chicago.

Fifth group.—Gilman, Clinton and Springfield (now operated by Illinois Central); Chicago and Iowa; Hannibal and Naples (now operated by Wabash); Peoria, Decatur and Evansville (formerly Pekin, Lincoln and Decatur, and Decatur, Mattoun and Southern), St. Louis and Southeastern; Cairo and Vincennes.

Since the above grouping was done, the following-named roads have been put into the fifth group:

Additions to fifth group.—Baltimore and Ohio and Chicago; Cairo and St. Louis; Carbondale and Shawneetown; Chicago, Milwaukee and St. Paul; Chicago and Pacific; Chicago and Paducah; Chicago, Pekin and Southwestern; Cincinnati, Lafayette and Chicago; East St. Louis and Carondelet; Evansville, Terre Haute and Chicago; Galena and Wisconsin; Grand Tower Mining, Manufacturing and Transportation (Grand Tower and Carbondale); Havana, Rantoul and Eastern; Illinois and Midland; Indianapolis, Decatur and Springfield; Lafayette, Bloomington and Mississippi; Louisville, New Albany and St. Louis; Danville and Southwestern (formerly Paris and Danville); Rock Island and Mercer County; St. Louis, Vandalia and Terre Haute; St. Louis and Southeastern; Springfield and Northwestern; Sycamore and Cortland; Wabash, Chester and Western; Belleville and Eldorado; Danville, Olney and Ohio River; Grayville and Mattoon; Moline and Southeastern; Mineral Point; Jacksonville Southeastern (formerly Jacksonville, Northwestern and Southeastern).

On this grouping, rates were established as follows:

Passenger rates per mile.

On roads in—	Over 12 years.	12 years and under.	Fare paid on cars.
	Cents.	*Cents.*	
First group	3	1½	10 cents in addition.
Second group [a]	2½	1¼	Do.
Third group	3¼	1⅝	Do.
Fourth group	3½	1¾	Do.
Fifth group	4	2	Do.

[a] Lake Shore, Michigan Central, and Peoria and Rock Railroad.

Mr. Esch. Is that schedule now operative?

Mr. Payson. It is now operative. It has not been changed for many, many years.

Mr. Kennedy. Do you know how they reached such a conclusion? Did they take into consideration the gross earnings per mile of road?

Mr. Payson. They took into consideration all the factors—the cost of construction, cost of operation, mileage run, traffic and traffic conditions, the amount of its bonded debt, and all that sort of thing. I may say, as to the amount of debt and stock and bonds outstanding, there has never been any claim, so far as I know, of the watering of the stock of those roads in Illinois. They were built as business enterprises, and very few of them were ever engaged in kiting operations in one way or another.

I might perhaps insert here, if it were desired, a statement contained in the report I have here of the annual convention of the railroad commissioners, where they enlarged upon that subject before the Interstate Commerce Commission in 1883. The result of all that was that, appreciating at once, Mr. Chairman, the injustice and impropriety of attempting to fix a blanket rate on all these different roads, they divided them into five different classes.

The railroads have been satisfied, and the people have been satisfied, and there have been, so far as I know, no criticisms upon the action of the board of railroad commissioners in Illinois, either as to the method of fixing the rates or the reasonable character of those rates. I have never heard any observations from Mr. Mann, the energetic Member from Illinois, as to the action of the commission in that State, although in more than one instance in this discussion it has been adverted to.

The Chairman. Let me ask you if at that time the classification of these rates met with your approval?

Mr. Payson. I can only speak of the road with which I was connected. I was connected with the Chicago and Alton Railroad, and it did meet with our approval. The Chicago and Alton Railroad has had a unique experience. There never was a time when it did not pay a dividend on its common stock. At the head of it were Mr. T. B. Blackstone and a lot of Boston capitalists. It was capitalized at exactly the cost of building. The money put into it was put in as an investment by the capitalists who built it, and it was run as a business enterprise, without regard to the stock market or outside influences of any kind, and there never was a year from that time down to the time when I severed my connection with it—and that was when I came to Congress in 1880, and I have read accounts of it since, keeping in touch with Illinois affairs, and I hope to do so as long as I may live—and there never was a year when it did not have a successful operation.

Its geographical situation was such that it commanded success. It is a railroad well constructed, without any extraordinary expenses connected with it, connecting the two cities of Chicago and St. Louis, running through the garden spot of all the world—for there is no better country agriculturally in the world than that country through which the Chicago and Alton runs, from Joliet to East St. Louis; and it has often paid as high as 8½ per cent. When the matter came before the railroad commission our people were perfectly content with it and accepted it, and have been so ever since.

The CHAIRMAN. What year was that?

Mr. PAYSON. This report was in 1879. I should say that action of the Commission was two or three years before that.

The CHAIRMAN. What changes in the density of population have occurred since that itme?

Mr. PAYSON. Very large changes, particularly in central and southern Illinois. But, Mr. Chairman, the reports of the railroad commission will show, and I have here the report of Mr. James Charlton, the general passenger agent and ticket agent of the Chicago and Alton Railroad Company, treating that very question, wherein he demonstrates that the increase in the density of the population has required on the part of the railway company, for the convenience of the public, an increase in the number of trains, an increase in its conveniences, an increase in the number and character of its station buildings, and so on, so that the net returns of its operating expenses from its passenger service are no greater in the way of net results from which dividends could be derived than they were when the country was more sparsely settled. The road was a dividend earner from the start.

He goes on to show there that not only do they require more expensive station houses and all that sort of thing, but a heavier class of rails, better trains, and more of them. One illustration he makes is that whereas the average cost per passenger car when the road commenced operations was $3,000, now they run as high as $8,000 and $10,000; and that while the cost of passenger engines was formerly but a few thousand dollars, now it runs up to $10,000 and $15,000. It costs more money to get them and operate them, and the wear and tear upon the right of way is greater, and heavier rails have to be used, because in the operation of a heavy passenger traffic, to insure the safety and security of the passengers upon the trains, a better rail is required than in the ordinary freight traffic.

All those things have to be taken into account, and all are acceded to, and it seems to me, Mr. Chairman, while the expenses and everything connected with the operating departments of all these roads, and particularly the Chicago and Alton, have increased very largely, the local rate per mile per passenger for a ticket has been constantly diminished.

The CHAIRMAN. Does the ratio of cost to the volume of business increase with the density of population?

Mr. PAYSON. I did not catch that.

The CHAIRMAN. I say, does the ratio of cost or volume of business increase with the density?

Mr. PAYSON. The figures show that that is practically the result all over the Union, as I learn from practical railroad men.

The CHAIRMAN. If that were true, then it would be fair to establish the same rate in the sparsely-settled country as in the densely-populated country, would it not?

Mr. PAYSON. Not at all, because the rate to be established must be in the first instance a reasonable rate, and what might pay a railroad in the first instance as a fair and reasonable rate, without any regard to density of population as a factor from which the travel might be expected to be drawn. In the first instance the question is, What is a reasonable rate for the service to be rendered?

Mr. ADAMSON. Did you mean to say it would increase or decrease the ratio of expense or cost to the volume of business?

Mr. PAYSON. The more business there is, the more it is done with modern methods, the more money it costs to do it.

Mr. GAINES. Don't you mean that the cost increases with the density of population? You have said the ratio.

Mr. PAYSON. No; I mean the cost of doing the business increases.

Mr. ADAMSON. I thought you misunderstood it. That is the reason I interrupted you.

Mr. PAYSON. Yes.

Mr. ESCH. Has not the ratio of cost of operation to the gross earnings hovered around 64 per cent for quite a number of years?

Mr. PAYSON. That depends on different roads.

Mr. ESCH. I mean the average.

Mr. PAYSON. I could not say as to that. My attention has only been called to some specific cases. I have seen the statement made that the passenger earnings of the New Haven and Hartford road approach perhaps 50 per cent of its entire revenue. I was surprised on hearing it. It has been stated on many occasions that it is 18 per cent on some of our roads West.

Mr. KENNEDY. The gross earnings of that road are $25,694 per mile of track. The passenger earnings are $12,246. That is practically 50 per cent.

Mr. PAYSON. Yes. That is what I said; practically 50 per cent.

The CHAIRMAN. The hour of adjournment has arrived——

Mr. PAYSON. Do we go on to-morrow at 10.30, Mr. Chairman?

The CHAIRMAN. We have a special order, set sometime ago, for to-morrow morning. The committee will have to determine as to that.

Mr. PAYSON. I do not insist that we be permitted to go on continuously. Whatever is the convenience of the committee is my convenience, but if the committee should determine that we could not come here to-morrow it would save us a day, if you have some other business that has to be transacted.

Mr. TOWNSEND. The hearing on the arbitration bill will consume to-morrow's session. I have notified some of the people to be here. I have heard from a great many of them.

The CHAIRMAN. If it is your pleasure, then, gentlemen, I will announce that the present hearing will not be continued to-morrow. If there is no objection, this hearing will be interrupted until Thursday, when it will be continued again.

Thereupon, at 12 o'clock, noon, the committee adjourned.

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
HOUSE OF REPRESENTATIVES,
Washington, D. C., Thursday, January 17, 1907.

The committee met this day at 10.30 o'clock a. m., Hon. William P. Hepburn in the chair.

The CHAIRMAN. The committee will be in order.

Mr. HILARY A. HERBERT. Mr. Ryan, of the Seaboard, the traffic manager, is present, and would like to be heard if you can take him up now.

The CHAIRMAN. Very well. Mr. Ryan, you may proceed.

STATEMENT OF MR. C. B. RYAN, GENERAL PASSENGER AGENT, SEABOARD AIR LINE.

Mr. RYAN. Mr. Chairman and gentlemen of the committee: If I am right in assuming that a reduction of passenger fares is contemplated because of the known immense increase in traffic, I think, in my humble opinion, that an error has been made, because it has not taken into consideration the immense increase in the cost of operating railroads.

While it is true that traffic has increased in great proportion, it is at the same time also true that the cost of operation has grown so enormously that, instead of great gains being made in net earnings, our company at least has shown a decrease in the net result, due principally to the increase in cost of labor and fuel, although there has been also an increase in the cost of everything that enters into our operating expenses. This increase has been brought about, first, by the heavy advance in the wages of labor, and, second, by the heavy advance in the cost of coal; although, as I say, every item which goes into the operation of a railroad has increased.

The CHAIRMAN. Mr. Ryan, do you prefer that questions should be put to you as you proceed, or would you rather go on until you get through and then have questions asked of you?

Mr. RYAN. I am here subject to your pleasure and convenience.

The CHAIRMAN. If it suits you just as well, I will ask you a question now, but not unless you prefer it this way.

Mr. RYAN. Whichever you prefer.

The CHAIRMAN. What has been the increase in wages in the last ten years?

Mr. RYAN. I can not give the increase in the last ten years. In fact the Seaboard Air Line Railroad system is not that old. It is not ten years old.

The CHAIRMAN. When you spoke of the increase, from what date had you the increase in mind?

Mr. RYAN. I had in mind particularly the last pay rolls, because the increase has been especially great with us in recent months. The increase of our pay roll in the month of August and the increase of our fuel account and other items in the month of August amounted to something over $200,000.

The CHAIRMAN. From the increase incident to the enlargement of the road, or from an increase of consumption or an increase of prices?

Mr. RYAN. No; the increase is largely in the increase in wages we have to pay. For instance, in our construction, as short a time ago as four years ago, we paid 75 cents a day for labor on the road. We can not get labor to-day for $1.25.

The CHAIRMAN. That is in the matter of unskilled labor?

Mr. RYAN. That is in labor to keep our property up. I have not the increased cost in detail, so as to give you the increase in salaries of telegraph operators or the increase in the salaries of each individual item on the pay roll, but——

The CHAIRMAN. Has there been any considerable increase in the pay of telegraph operators, we will say, in the last five years?

Mr. RYAN. My understanding is that there has been an increase from $45 a month up to $55 a month for telegraph operators, and some of the operators used to get less than that. Some agents were

operators as well as agents and were paid on a commission basis, and paid as little as $17.50 a month, but we have not got them now except at the regular scale fixed by the Order of Railway Telegraphers.

The CHAIRMAN. What has been the increase in wages in the last five years of enginemen?

Mr. RYAN. I could not give you all that information because that does not come within the scope of the passenger department.

The CHAIRMAN. What has been the increase in the price of bituminous coal in the last five years?

Mr. RYAN. Well, bituminous coal four years ago, as I know, we got as low as 65 cents for run of mine at the mine. We can not get coal now sufficient under our contracts to keep us going. We have some coal contracts at 85 cents, made for five years, and we have three years still to run at 85 cents at the mine, but we can not get coal to run us at that rate, and we are paying $1.10 now where we were formerly paying 65 cents.

The CHAIRMAN. At the chute?

Mr. RYAN. No, sir; that is for the run of mine, say at $1.10 at Birmingham, or 85 cents for the run of mine on the Norfolk and Western at the Norfolk and Western mines, and that is something like $1.45 more when delivered to us.

The CHAIRMAN. Delivered on the cars?

Mr. RYAN. Yes; delivered to us.

Mr. KENNEDY. Your first price was loaded on the car at the mine?

Mr. RYAN. Yes; it would be more than that now because the rate from the mine delivered to us would be $1.45 for the freight alone. Prior to the rate bill the railroads had a lower rate than the commercial rate, but now they have to pay the commercial rate on the coal.

The CHAIRMAN. What distance does that coal haul that costs you about 85 cents a ton?

Mr. RYAN. I think in round numbers about 300 miles.

The CHAIRMAN. Do you regard that as a fair rate?

Mr. RYAN. Yes: that is about 5 mills per ton a mile. That is a pretty good rate for it. During the last five years we have gotten coal as cheap as $1.91 delivered to our rails from Norfolk and Western fields and recently for the same coal have paid $2.60. For Birmingham coal we have paid $1.78 and recently $2.58 at Montgomery. In order to secure coal at Savannah, where we have gotten coal as low as $1.23, we have had to buy a vessel at a time at $4.25, and this is now the price there.

The CHAIRMAN. Now proceed.

Mr. RYAN. The tendency of railroad rates for some time has been downward, and yet everything else, whether a necessity or a luxury, has been advanced. I refer principally to living expenses, because of that I know more than of anything else. I suppose you gentlemen can bear out my testimony in that respect, because we all have to pay out more for the necessities of life than we did five years ago.

Please consider this condition well, namely: If, at a time when the traffic of the country is admittedly great, our net earnings are less than they were a year ago, what, then, may I ask, is to become of us if, first, our earning power is impaired by the proposed rate reduction, and second, our gross earnings are still further reduced by a falling off of traffic, which in the course of time is inevitable? This falling off in earnings will not wait for adjustments in wages and in the cost

of fuel, which travel slower. It will mark another period, probably, in the financial history of the Seaboard, which has more than once hitherto been forced, in its efforts at development and preservation, to raise money on its future hopes. Its earning power, however, is its credit, and this the proposed legislation would impair, if not altogether destroy; for in my opinion a reduction in our rates, whether in the nature of a flat rate or through the medium of a mileage ticket, would prove ruinous to our property, for the reason that with existing rates we are barely able to pull through.

The CHAIRMAN. Let me ask you, if you please: Suppose this bill should become a law, what would be the aggregate reduction of your receipts?

Mr. RYAN. Our receipts last year from passengers were three and one-quarter millions, and I believe the aggregate reduction would be in proportion to the reduction of the rate. If a reduction of 1 cent in the rate would mean a reduction of one-third in the average, it would mean a reduction of one-third in our receipts.

The CHAIRMAN. Do you believe that would be the result?

Mr. RYAN. Yes; I believe it would mean a reduction of one-third in our receipts—coming from business now paying the 3-cent rate.

Mr. ADAMSON. Do you not believe a reduction in the rate would stimulate your traffic?

Mr. RYAN. I have no reason in the world to believe that.

Mr. ADAMSON. Do your trains now run full, or could you accommodate a greater number of passengers without increasing your rolling stock?

Mr. RYAN. We handle, of necessity, a heavy train, because we have to take care of the largest amount of business at some time on the road, which requires a heavy train. But the usual course is for us to carry a great deal of deadwood. Our train earnings are not large, and yet the trains are very heavy, because at this season of the year, for instance, we have a heavy traffic southbound and a light traffic northbound.

Mr. ADAMSON. It would be possible for you to carry more passengers, would it not?

Mr. RYAN. No; because if we could do without the deadwood we would cut it off. Our trains are constituted to handle the business that comes to us now.

Mr. ADAMSON. Does the system as you have it carry the full capacity?

Mr. RYAN. It does at times. For instance, there may be two days in a week when we would run at the full capacity of the train and five days when we would run at less than the full capacity of the train. But suppose we tried to reduce our equipment, how could we meet the changing conditions of traffic?

Mr. ADAMSON. I was asking you if a reduced rate would stimulate travel so that you could fill your seats on the other five days of the week.

Mr. RYAN. I think not. It has not done so in Ohio.

The CHAIRMAN. Mr. Ryan, what is the average number of passengers per car or per train on your road?

Mr. RYAN. Our average number is about 34.

The CHAIRMAN. Thirty-four to a train?

Mr. RYAN. Yes.

The CHAIRMAN. What would be the average capacity, or the capacity of the average train?

Mr. RYAN. The average capacity, say, of our Florida line——

The CHAIRMAN. No; take all of your trains that you have given in your other answer, where you say 34 passengers to the train.

Mr. RYAN. The average capacity would be three cars—a little over two cars; because some run with two cars and some with three. Let us say it averaged three cars to a train; that would be 150 passengers, with two in a seat at the average, taking about 50 to a car.

The CHAIRMAN. Then the average is about 15 per car—per car having a capacity of 50?

Mr. RYAN. Yes.

Mr. ESCH. Is not the average capacity of a coach 60?

Mr. RYAN. Yes; the average capacity of a coach is 60. But you take the case of children. Suppose you take a woman traveling with two small children; we get nothing except for the adult. You probably would not find any place to sit in the same seat with the woman.

The CHAIRMAN. What is the average number of passengers per car to the Pullman or to the sleeping car?

Mr. RYAN. I have not that separated.

The CHAIRMAN. Have you the means of furnishing that?

Mr. RYAN. Our Pullman cars would average, I think, about 10 to a car.

The CHAIRMAN. You think they will average that?

Mr. RYAN. Yes.

Mr. ESCH. The capacity is 24, aside from the compartment?

Mr. RYAN. Yes.

Mr. ESCH. Probably 26?

Mr. RYAN. Yes, 26; with the drawing room.

Mr. GAINES. Mr. Ryan, you speak of the unused space in the car as "deadwood." I understand you have a greater amount at this season of the year of deadwood coming North than going South?

Mr. RYAN. Yes.

Mr. GAINES. You have to have the same number of cars each way, do you not?

Mr. RYAN. Yes. We have to carry the same sized train back North in order to go South again. Later on those conditions may reverse.

On some of the roads, take the New York Central, for instance, which is favored with a very heavy traffic, their trains will average about 66 people, and that is the same on the New York, New Haven and Hartford, and on the Lake Shore and Michigan Southern. Those are three roads going through very heavily populated regions.

The CHAIRMAN. Now, can you give us some idea of the number of cars in that train that averages 66 persons?

Mr. RYAN. That is the average of all. Some of our trains are run with a combination car and coach on the branch lines, and some with combination car and two coaches on the main lines, and some with three full coaches on the main line; and then there are some with as many coaches in addition to sleeping cars and Pullman parlor cars.

Mr. HERBERT. I think that the Chairman in asking the question had in mind some of those heavy trains in regions where there is congested traffic.

Mr. RYAN. Some of their local commuter trains would run still higher than that in the number of coaches.

The CHAIRMAN. You have given the number of persons. Now I want you to give the average number of cars.

Mr. RYAN. The consistence of the trains as a rule for through trains would be two coaches, sometimes three coaches, and a parlor car and a sleeping car and two or three Pullmans, making the train run as high as ten cars, including mail and express, and the coaches and sleepers or parlor cars. On the commuter trains they will run six or eight cars without any Pullmans. On some of the trains, the side line trains, they will run a good deal less than that.

Mr. ESCH. Would they average three?

Mr RYAN. They would average more than three in a big road like that. I am only giving this from my general knowledge of the business. I have not the figures.

Mr. MANN. You have not made any figures?

Mr. RYAN. No, sir.

The CHAIRMAN. Would it be a safe proposition to say that, taking all the passenger trains in the United States, one-third of the space is unused?

Mr. RYAN. One-third of the space, I think, on our line is unused during a part of the year.

The CHAIRMAN. I mean two-thirds of the space is unused?

Mr. RYAN. Yes, it is on our lines a part of the year, for a part of the trip. But we have to provide the space because at other parts of the trip we may need it.

Mr. ADAMSON. You do not know on which day you will need it?

Mr. RYAN. No. We are bound to carry them to take care of the people, and yet in the end you will see how low the average is. We are constantly working upon some plan to lighten the trains. They are so heavy, because the equipment has grown so much in weight it is difficult for us to make our schedules.

Mr. ESCH. Have you any grades that are heavy?

Mr. RYAN. Not long ones on our main line. We have many dips. Like a great many other roads that were built on small capital, the builders of the seaboard stuck to the surface as much as possible, and we go uphill and down all the way. We encounter 1½ per cent grades; that is, 78 feet to the mile; but they are not long. The average number of passengers per train mile on our road is only 34. I had another road in mind when you asked me the question, and I said 45. I should have said 34.

The CHAIRMAN. That includes everybody you carry, deadheads and all?

Mr. RYAN. That includes the pay passengers. We do not carry many deadheads now, especially, except those principally whose business it is to ride in the train.

The CHAIRMAN. What was the percentage of your deadheads prior to that, including everybody—your own employees and everybody?

Mr. RYAN. I think the percentage of deadheads would run about 10 per cent.

The CHAIRMAN. What proportion of that would be your own people?

Mr. RYAN. I think more than half of it would be our own people; probably three-fourths of it would be our own people. Our road, it

must be understood, is not fully developed, and needs constant care and nursing, and this demands money, whether we earn it or not. But it must be apparent to everyone that when a road is constructed through an undeveloped country adequate returns do not come until after development has been reached, and therefore the amount necessary for such development through the operation of the road, over and above its earnings, becomes a part of that road's cost, just as much as the grading, the ties, the rails, and all other items entering into its construction.

This is evidenced in the increase in capitalization since the Seaboard was first formed. The increase represents loss in the cost of operation, and most assuredly does not represent what is commonly known in the railroad world as "watered stock." I am impressed with an illustration within the Seaboard system itself which will make my meaning clear. The Baltimore Steam Packet Company, otherwise known as the Bay Line, has been established for a very long number of years. Its business has become established because the territory served by it has been developed, and I am told that it earned several years ago as much as 12 per cent on the capital invested.

The Seaboard Air Line Railway purchased this property, and undoubtedly now it is more valuable than ever before, because, in addition to its own earnings, a great amount of traffic is turned over to it by the Seaboard, and yet its net earnings are all absorbed by the railroad system and are used to pay the expense of operation of the system not sufficiently developed to sustain itself. In other words, the part that earns a profit must bear the burden of the part that shows a loss.

It has been shown here by Mr. Nicholson and others that a rate which might prove reasonable and just for one road might be unreasonable and unjust when applied to another, because of the difference in the density of traffic which comes with the density of population, and also in the physical construction which would affect the cost of operating the two roads. Thus, by comparison—and these figures are from Poor's Manual—the New York Central and Hudson River Railroad for the calendar year of 1905 operated 3,774 miles of road. It earned 1.73 cents per passenger per mile. It earned $6,828 per mile of road, with train earnings from passengers alone of $1.10 per mile. But the keynote is found in its density of traffic, 388,000 passengers having been carried 1 mile per mile of road.

Our density of traffic for the fiscal year of 1905 was 47,800 passengers carried 1 mile per mile of road. We operate 2,610 miles, earning 2.327 cents per passenger per mile, with train earnings from passengers of 81 cents, or about $1,100 per mile of road. The New York, New Haven and Hartford for the fiscal year ending June 30, 1905, with 2,075 miles of road, carried 565,000 passengers 1 mile per mile of road. The average rate per passenger per mile was 1.7 cents; the train earnings were $1.37, and the earnings per mile of road from passengers $9,638.

The Lake Shore and Michigan Southern, in a different territory, with 1,520 miles of road, for the calendar year of 1905 carried 243,000 passengers 1 mile per mile of road, and its trains from passenger traffic earned $1.10 per mile. It earned $5,043 per mile of road, with an average rate of 2.035 cents.

Surely no one will say, with this before them, that a reasonable rate

on any of these roads would be reasonable on ours. You are all, of course, familiar with the long, heavy trains of the great systems requiring monster engines to pull them. The limit of weight seems to have been reached. Therefore, if the rate is reduced 33⅓ per cent, and it requires 50 per cent more passengers to produce the same revenue, this increase will require more trains, for the existing ones will not handle the people. If you reduce the rate one-third, you must increase the number of people handled 50 per cent in order to make the earnings the same or sufficient to take care of the reduction in the rate.

It has been suggested that the earning power of a road should form the basis of its rate; and while this may seem fair, it would not work out in practice, since the weak line would either have to meet the rate thus fixed for the strong line or else be driven out of business. Neither can a uniform rate be made, for the reason that the standard applying to the short line would give the longer competing lines relatively less.

Another suggestion has been that a territorial division be made, on the assumption that the density of traffic would be found uniform within certain boundaries. Here, again, I believe, it will be found that the weak must be made to suffer for the strong. If this plan were adopted, a new and undeveloped road could not live in the territory served by one of the strong lines, and it would only be a short time before the strong line would have absorbed the weaker one. This hardly needs an explanation, for the reason that it is plainly apparent that the weak line must either adopt rates no higher than those of the strong lines or else go out of business between competitive points. It seems to me that the effect of such a plan would be to absolutely put a stop to new construction.

This, it seems to me, is a very serious proposition, for the reason that we occupy a territory served by an older line competing with us at almost every point we reach. If it was deemed by the law that the older line could stand the loss, and the law thought that we could not stand the loss, what remedy, I would like to know, would there be for us? We would be hemmed in.

Mr. MANN. Which is your competing line—the Southern?

Mr. RYAN. The older line that I refer to is the Atlantic Coast Line principally.

Mr. MANN. Let us take it simply for an illustration. Let me ask you: Do you think that if the Atlantic Coast Line, for instance, was by itself and there was no other competition or line there, and the rate ought to be reduced to 2 cents, therefore because you are there the Atlantic Coast Line shall be permitted to charge the public an excessive rate? Should the public pay tribute to that road merely for the purpose of protecting your road?

Mr. RYAN. Well, that is rather a hard matter to decide.

Mr. MANN. I do not mean to refer to your road in a specific way or to you personally, but I simply used that as an illustration.

Mr. RYAN. I could not answer it with any degree of positiveness or in a way that would carry weight, but I would like to ask a question myself—without, however, the hope of having it answered, because I do not believe it can be answered: What kind of a law is it in these days, when monopoly is so much discountenanced—what kind of a law is it that will help to build up a monopoly at the sacrifice of a weak line?

Mr. MANN. Your position, then, is that the Government, in order

to prevent monopoly, should require the people to pay a larger or higher rate than is necessary in order to prevent the absorption of the weak line by the strong line?

Mr. RYAN. I cannot assume that there is any line in our part of the country that is earning more than a reasonable operating expense on its passenger trains. The Atlantic Coast Line Railroad I spoke of in a general way only, because it is an older road and because it enjoys a heavier traffic than ours.

Mr. MANN. I assumed that just for the purpose of argument.

Mr. RYAN. Yes. I noticed in their last year's annual report, or rather for June 30, 1905, that they only earned 76 cents per mile from their straight passenger business, exclusive of mail and express.

Mr. PAYSON. What was the amount of their operating expenses?

Mr. RYAN. Sixty-two per cent, I think, in that year.

Mr. MANN. I was referring, of course, to your argument, and using that simply as an illustration, because you had used it yourself as an illustration.

Mr. RYAN. I used it in a general way, because it was an older road and enjoys a heavier traffic. But when you speak of its earning excessively, I speak of its earning 76 cents a mile.

Mr. MANN. Suppose that two cents a mile was a reasonable and fair rate to pay: Would you still say that the Government ought to permit it to maintain a still higher rate, an excessive rate, and thereby require the people to pay tribute to that road in order to protect your road?

Mr. RYAN. All I can say is that if the Government does not show any interest in infant industries in railroads, as it has done in the case of other infant industries, we would be in a mighty poor fix. I would like to know how we would ever come out. The only solution would be that we would have to get the Atlantic Coast Line to buy us. It means, if you are going to make a law to cut the earnings down on the strong lines without regard to the weak lines that the only hope for the weak lines is to sell out to the stronger lines, and thus increase the monoply in that way.

Mr. KENNEDY. The weak line is at the mercy of the strong line anyway. The strong line can put the price down and do you up.

Mr. RYAN. The weak line is a pretty poor proposition.

Mr. MANN. I think the strong lines usually claim that they are at the mercy of the weak lines.

Mr. RYAN. It is a pretty complex question.

Mr. GAINES. Well, Mr. Ryan, since it is an unsettled question whether the public service can best be regulated by competition or by some Governmental regulation, or by both, your position is, as I understand it, that it is certainly questionable policy now for the Government to pass a law which in your opinion would destroy competition. That is your proposition, is it not?

Mr. RYAN. My whole feeling is very intense upon this point, that I would hate to see the Government pass a law which would destroy the Seaboard Air Line Railway, and I believe that a bill such as this would. I do not think there is any hope for us if you take the revenues away from us now upon which we are barely able to live. I do not see anything to come of us except to try to find a purchaser in one of the competing lines.

Mr. KENNEDY. What is the relative proportion between your earnings from freight and passenger traffic?

Mr. RYAN. It is about 21 per cent.

Mr. KENNEDY. Twenty-one per cent of the gross earnings from passengers.

Mr. RYAN. We earned three and one-half million dollars from passengers, and the freight department made about $11,000,000. I think it is about 21 per cent.

Mr. ESCH. Then your opinion, Mr. Ryan, is that a reduction of 33⅓ per cent in your passenger earnings, which total three and one-half millions as the result of the passage of this bill, would put you out of business, although your freight rate would not be affected?

Mr. RYAN. Yes. The statement of the Seaboard was published yesterday in the papers for the month of November and for the period covered between the 1st of July to November 30, showing that the Seaboard, after paying its fixed charges, had a deficit of over $300,000 in five months.

Mr. ESCH. You have done a large amount of construction work in the last six months?

Mr. RYAN. Not in that. That has gone into operation, not construction.

Mr. HERBERT. What did you say the deficit was?

Mr. RYAN. Over $300,000 from the 1st of July to the 1st of December. Now, if we had that deficit and added to that the deficit to be caused by a reduction of one-third in passenger revenues, it would not be very long before we would look for a purchaser, because I do not think new money would see the hope to live on the road.

Mr. ESCH. What is your bonded indebtedness?

Mr. RYAN. The total capital liabilities are $131,000,000.

Mr. ESCH. On a total mileage of how much?

Mr. RYAN. Two thousand six hundred and ten of our own mileage, and we have assumed the construction of the road between Atlanta and Birmingham 167 miles, and the Florida and West Shore. In round numbers it would be about 3,000 miles.

Mr. KENNEDY. Can you state what the amount of fixed charges was? What was that amount?

Mr. RYAN. I can give you this from the last annual report, June 30, as to current liabilities. The annual interest then on the bonds was $2,748,650, to which should be added interest on equipment and floating debt, taxes, and rent of roads, making total of $3,647,609.11. Our stock is divided, $25,000,000 in preferred stock and $37,500,000 in common stock and $57,840,000 in bonds, in addition to the bonds of the Atlanta and Birmingham and the Florida and West Shore and the Wilmington bridge.

Using the basis once prescribed by the Interstate Commerce Commission, we found that it cost us last year 77½ cents per mile to operate our passenger trains, exclusive of their share of interest and taxes; and as this expense must be met, as well as any direct operating expenses, it will be seen that we have not yet reached a point where our passenger business is self-sustaining. Therefore, if our train earnings should be reduced, we would either have to reduce the number of trains or find some way to economize in order to meet conditions.

Our local rate in the six States reached by us is 3 cents per mile, except in North Carolina, where the first class is 3¼ cents and the second class 2¾ cents, the average in that State being about 3 cents per mile.

Mr. Mann. May I interrupt you long enough to ask how long those rates have been in force in your territory?

Mr. Ryan. Mr. Hardwick might answer that. They have been in effect since I have been here—four years, or four and one-half years. The Florida rate was 4 cents a mile, and was reduced to 3 cents a mile four years ago, on Christmas—four years from last Christmas. The other rates have been unchanged since I have been with the Seaboard, four and one-half years.

Mr. Mann. You do not know whether they have been in force for a quarter of a century?

Mr. Ryan. My understanding is that they have been in force for a term of something like ten years.

Mr. Hardwick. Since 1900.

Mr. Ryan. That is six years ago.

Mr. Mann. That is the average rate over the entire line. How long has the three-cent rate been in effect?

Mr. Ryan. That rate has been in effect for a number of years. I do not remember when the rate was reduced, except in Florida, as I remember, when that was reduced four years ago last Christmas.

Mr. Esch. Do you get more than throe cents a mile on any other part of your line?

Mr. Ryan. Only in North Carolina, where we get 3¼ cents on the first-class.

At a time when the Atlantic Coast line was the only one between Savannah and Jacksonville, its distance being 172 miles, the rate of $5.15 was made. Later, when the line now owned by this company was built, and the distance made 128 miles, the rate between Jacksonville and Savannah of $5.15, as well as the rate of $5 between Fernandina and Savannah, was adopted by the short line, although the combination of the State rates made less. This was made the subject of complaint before the Interstate Commerce Commission (No. 816, A. L. Artz *v.* Seaboard Air Line Railway), and, after a hearing before Judge Prouty, it was decided by him, November 29, 1905, in favor of this company.

Mr. Mann. In that case it was held that the through rate might be greater than the sum of the local rates?

Mr. Ryan. Yes.

Mr. Mann. So that it is not invariable, as was suggested here the other day, that they would have to conform in their State rates with the interestate rate?

Mr. Ryan. No; not in this case. Commenting on this case, quoting from the decision, it was stated: "The reasonableness of the passenger fare upon a particular part of the defendants' system must be determined with reference to the system as a whole. The only question which we have to determine is whether the interstate rate is unreasonable, and in this case it has been found it is not."

This was based upon the question of density of traffic.

Mr. Mann. Is that a 3-cent rate?

Mr. Ryan. Which; the $5.15 rate?

Mr. Mann. Yes.

Mr. Ryan. No; it was made 3 cents a mile on the long mileage. The long mileage was 172 miles, and when the cut-off was built, as there was no sustaining population, no reduction was made in the rate on account of the shorter mileage.

Mr. MANN. Was the old line what was called the old Waycross Line?

Mr. RYAN. Yes. That is the old Plant System, or the Atlantic Coast System. Our line was built as the Florida Central & Peninsular Road, a part of the Southbound Railroad.

With local rates at three cents or a little higher, the average rate of the system for the fiscal year ending June 30, 1906, was 2.382 cents, every lower rate than the local rate having a tendency to lower the average.

There are excursion rates, charity rates, clergy rates, mileage-ticket rates, the meeting of competitive rates, immigration rates, and so forth. Thus it is seen that our average is now nearer 2 cents than 3, and as we are now earning no profit, it is apparent that any reduction must entail a loss.

Last March the legal local rate in Ohio was made 2 cents per mile on all roads. It seems to me that it is not necessary to go any further in determining the effect of the 2-cent rate upon the road earnings. We find, first, that the larger systems operating through large cities have shown increased earnings, and, second, that the weaker lines, not so well favored with population, have shown a decrease. We also find that the increase on the Big Four Railroad in the State of Ohio has been in the same proportion as in the State of Indiana, where there was no reduction.

We also find that while the Big Four in the State of Ohio has increased its earnings, the traction companies paralleling the road have shown decreases in theirs. While at first it might seem that the reduction is a stimulant, at least to the extent of the reduction in the rate, thus making the earnings approximately the same in Ohio and Indiana, it will be seen, however, that the increased business under the 2-cent rate is not all due to the rate reduction, but rather to the fact that it has enabled the steam railroads, by drawing from them, to deprive the electric lines of a large share of traffic; and that is another case where the weak must be made to suffer for the strong.

The lesson in Ohio also teaches that while the railroads going through the large cities have shown increases, partly on account of taking it away from the traction lines, the roads not being so much favored by heavy traffic, have shown decreases in their earnings. A notable case is that of the Cincinnati Northern Railroad, a line running from Cincinnati to Jackson, Michigan, owned by the Big Four, but not like the main line of the Big Four reaching the big cities. The Cincinnati Northern earns about $1,000 per mile of road a year, while the Big Four earns about seven or eight times as much. The Cincinnati, Hamilton and Dayton Railroad shows the same result, namely, that while its main line earnings between Cincinnati and Toledo have shown increases, the paralleling traction lines have shown decreases, and the business of the Dayton and Ironton Railroad, a branch of the Cincinnati, Hamilton and Dayton Railroad, has practically gone to pieces.

Mr. KENNEDY. I know about that situation in Ohio. The State is practically covered with traction lines. I can get on a street car and ride in my district, and without getting off the street cars I can go clear to Detroit, Mich. I can go all over the country on the traction lines, which all charge under 2 cents a mile. Now I would like to ask you whether or not you do not think the railroads there

have stood in their own light by keeping their own rates up until they forced all these traction lines to be built? Would not the railroads have had practically all the business if they had reduced their rates long ago?

Mr. RYAN. About ten years ago Senator Camden bought over the line between Ashland, Ky., and Catlettsburg, Ky., and built a line between Catlettsburg and Huntington, W. Va., making a line 16 miles long, paralleling the Chesapeake and Ohio. Before that shuttle trains ran on the Chesapeake and Ohio, between Ashland and Huntington with a low rate. They were called shuttle trains because they ran back and forth as fast as they could load and unload, and it earned in the neighborhood of $150 a day, that one train. When the new line (electric) was put in operation the president of the Chesapeake and Ohio said "he would like to meet their rates and continue in the business a year at least, whether he would be able to secure enough revenue to pay for operating the trains or not." He did not want to show that he was whipped at the start. The Chesapeake and Ohio ran the train over a year at a cent a mile rate; 15 cents for the 16 miles between Ashland, Ky., and Huntington, W. Va., and they did not earn $20 a day. They ran them for a year, and then took them off because they were losing too much money. You cannot always handle the business as against the traction lines on the rate itself for short distances, for the reason that a man at Huntington could get on the traction lines down in the city of Huntington, right in front of a store, and ride ten miles to Catlettsburg and get off in front of his residence.

Mr. ADAMSON. Yet do you believe that traction line would ever have been built if the railroad had originally offered that accommodation at a lower rate than it was charging?

Mr. RYAN. Suppose the Chesapeake and Ohio had voluntarily, without any competition, put in the rate of 15 cents between Catlettsburg and Huntington?

Mr. ADAMSON. If it had prevented the entrance into the field of a successful competitor it would have been good policy; if they put in a 2-cent rate and put in that accommodation to keep down a competitor it seems to me it would have been wise.

Mr. RYAN. And confined that to fifteen miles?

Mr. ADAMSON. I do not know about that.

Mr. RYAN. Suppose they had gone no further; if they had not voluntarily put it in elsewhere they would have been forced to do so by legislation.

Mr. ADAMSON. There would be other places where they might have been forced to do the same thing.

Mr. RYAN. I know; but suppose they had done so and put it in there, and this action had for the adoption of the rate over the whole system. Where would their earnings have gone to?

Mr. KENNEDY. To put their earnings at fifteen cents, that would be a losing price, and it would be suicide.

Mr. RYAN. If they had put it at two cents there, it would have gone over the entire Chesapeake and Ohio road.

M. ADAMSON. I assume that that traction line was built to meet a condition or a demand, and that the railroads had notice that it would be done unless they accommodated their rate to meet the demand. Of

course I would not expect it would voluntarily in a clean place do that without a demand for it or without competition.

Mr. Ryan. I do not see that there was a demand, except when that road was built it was the fashion to build traction lines in that section of the country. They were building them in Ohio and in Indiana and in some places in Kentucky; but not so much in Kentucky, because the laws were not favorable.

Mr. Adamson. I know of cases in my own mind where people were bottled up. I know of triangular schemes to reach your lines because of sections which were not traversed by railroads. I did not know but that that was in a similar condition—that those people had that traction line built there in order to escape such conditions.

Mr Ryan. I never could understand why it was so easy to secure money upon traction bonds at the time that road was built.

Mr. Mann. They are all making money. More men are making money out in my country now by building traction lines than by building railroads, and they are running at a cheap rate which you can not meet.

Mr. Ryan. They can operate them cheaply.

Mr. Kennedy. Now as to this lesson drawn from Ohio, I suppose it is instructive mainly because of its bearing on the question of whether a reduction of rates would stimulate travel?

Mr. Ryan. Yes.

Mr. Kennedy. Is it not a fact that we should take into consideration the travel carried by traction lines in order to determine whether it has really stimulated travel?

Mr. Ryan. The travel handled by the traction lines, I believe, is due more to the frequency of trips and to convenience, as I stated, than because of rates.

Mr. Kennedy. But the railroads, too, are carrying more passengers there than ever before, and they are not carrying nearly one-half of the travel. They are carrying more, themselves, and they are not carrying one-half of the travel in Ohio.

Mr. Ryan. I stated that as I supposed it was the foundation of your proposed reduction in the rates. There has been a tremendous increase of traffic over all the lines. I am not a pessimist, but I do believe the time is coming when you are going to get back to where you were before.

Mr. Kennedy. Do you not think that that stimulated travel is largely on account of cheap rates?

Mr. Ryan. No; because the railroads—the steam railroads—have had increased travel without any difference in the rates.

Mr. Kennedy. But not to so great a degree. Look at the travel in Ohio, where they have cheap rates on both the traction lines and the railroads.

Mr. Ryan. Ohio has the population necessary.

Mr. Kennedy. But they had it before the traction lines and the cheap rates were introduced.

Mr. Gaines. Has the increase of travel in Ohio since the reduction of the rate to 2 cents increased more rapidly than the railroad travel in other similar sections of the country where there has been no reduction of the rate by law?

Mr. Ryan. I have referred to that, particularly with reference to the Big Four. I saw the statement of the figures of the Big Four, and

they struck me as rather a coincidence that the percentage of increase in the passenger rates on the Big Four in Ohio was practically the same as that in Indiana, where there was no change in the rate.

Mr. KENNEDY. On the same road, however?

Mr. RYAN. Yes; on the same road. You could not get a better illustration.

Mr. KENNEDY. The traffic on the Big Four is chiefly through traffic. If they ride more cheaply through Ohio, they will ride into Indiana to get the advantage of the cheap rate.

Mr. RYAN. No; the principal trend of their travel is between Cincinnati and Cleveland. Look at their cities: Cincinnati, Middletown, Dayton, Springfield, and Columbus, all those cities following each other as closely as that and having the large population they have. That is what I am trying to make clear now. It is the density of travel that tells. Take the Big Four Railroad running through those cities. It has shown an increase. Take the Big Four Railroad as shown in the statement of the Cincinnati and Northern. It has shown a decrease. Where they have not density of traffic you can not stimulate traffic. You can not stimulate the traffic in North Carolina going through the sand hills. You have got no one to reach there, and it is the same way to a degree with the Cincinnati Northern.

Mr. ADAMSON. But where the population is, you might make some improvement by yielding to the demand, especially where you are threatened with competition, of which you are just now speaking?

Mr. RYAN. I do not think it is a good thing to have the stimulus given to the railroad by requiring it to operate at a loss in competition with traction lines. The effect of such competition as that is to make the railroad operate at a loss.

Mr. MANN. When you spoke of Ohio I understood you to say there was an actual increase in the passenger business on the Big Four in Ohio?

Mr. RYAN. Yes.

Mr. MANN. Of course that means there has been an increase in the passenger traffic of more than fifty per cent. According to your statement awhile ago I did not know whether or not there was an actual increase of that amount. Now do you think it is proper for the Big Four to charge 2 cents a mile in Ohio, and just across the line, in Indiana and in Illinois, where the population is practically the same and where the cities are just as large, they should charge 3 cents a mile or that they should charge 2 cents a mile locally in Ohio and 3 cents a mile if a man goes across the border line of the State?

Mr. RYAN. I do not think the increase in travel in Ohio has been as great as you state.

Mr. MANN. You stated it has been over fifty per cent.

Mr. RYAN. You said that——

Mr. MANN. No: you stated that. I asked you about that. I mean on the Big Four.

Mr. RYAN. The increase on the Big Four has drawn from the other lines. It has drawn from the traction lines. I do not know whether you are familiar with that line running through the State or not, Mr. Kennedy?

Mr. KENNEDY. No; I am not familiar with it.

Mr. RYAN. The traction lines, before the 2-cent rate was effective in Ohio, had been altogether independent of the railroads. They had

made their rates and handled their business as they saw fit. After the 2-cent rate was adopted by the railroads, they tried to get an agreement as to the rates, because they claimed that where their service is infrequent, as is the case where the population is not dense, they can not do business any better than the steam roads. It is only when they have frequent and convenient service that they can operate profitably at the lower rate.

Mr. MANN. May I ask you one other question along that line?

Mr. RYAN. Yes, sir.

Mr. MANN. As I understand you to say, the case depends somewhat on the density of traffic. As to the relative cost, of course that depends on the density of population. The rate of 3 cents in Ohio has been there, I assume, in the neighborhood of a quarter of a century. The rate in Illinois of 3 cents has been in force as a matter of law for more than thirty years, and the Ohio and Indiana rate followed shortly after that, I think. The population has increased very greatly. Do you think there ought to be some reduction of rates on account of the increase of population and the increase in the density of traffic?

Mr. RYAN. I do not see how you are going to make it fair for all the roads.

Mr. MANN. There has been a great increase in population tributary to all the roads in that section of the country. Do you think there ought to be a corresponding decrease or some decrease in the rate of fare?

Mr. RYAN. Well, I do not know. I am not familiar enough with the condition of the roads in those States to say whether they are getting more than a fair return on their money or not.

Mr. MANN. I asked that question because I understood the basis of your argument to be what a road could afford to carry passengers for depended upon the density of traffic; and if that be the case I wanted to know your judgment in cases where the density of traffic had increased, whether there should be some decrease in the rates.

Mr. RYAN. I think it is very clear that the density of traffic is the foundation upon which earnings are to be built. I believe, too, that there are some roads with traffic sufficient to sustain them at the reduced rate. For instance, I think the New York Central shows that it can live under the 2-cent rate. I think the New York, New Haven and Hartford could live under the 2-cent rate, and the Lake Shore and Michigan Southern and Michigan Central could live under the 2-cent rate. But do you believe that even with that density of traffic new capital will be found to go into territory at all competitive with those lines with the hope of earning anything out of it when they may be far enough away to just escape the large places served by these strong roads.

Mr. MANN. Do you know how long the New York Central has by law had a 2-cent rate?

Mr. RYAN. I know of one thing, that the New York Central has something that no other railroad ever did have in the world. The New York Central had a developed territory turned over to it. We did not. When a man tried to plant grapes and tried to grow vegetables in the sands of North Carolina 25 years ago, they said he was crazy. We had a desert. We did not have a great canal bed to build our railroad on, and we did not have big cities on our line such as the New York Central received as a gift.

Mr. MANN. Don't you have larger cities on your line now than the New York Central had at the time it accepted its charter? I think if you make the comparison, you will find that you are mistaken about that.

Mr. RYAN. I have not made any comparison.

Mr. KENNEDY. In our country under existing conditions we have a peculiar situation. If an individual should apply for a ticket in Sharon—that is a little town on the eastern line of our State, and the Ohio State line is the western corporation line of the village of Sharon—if he should buy a ticket there to Columbus, they would charge him 3 cents, and he would ride a quarter of a mile in Pennsylvania and the rest of that distance in Ohio.

Mr. RYAN. I think they have changed that.

Mr. KENNEDY. The practice of the railroads has been that way. Coming from a convention not long since with a number of other parties, they all laughed at me for not getting a ticket from Rochester to my home. I said, "I will pay on the train." I paid at the first town inside the Ohio line, and when I got home—the distance was only about 13 miles in Ohio—I got home for fifteen cents less than the other members of the party paid for their tickets. Now how can practices of that kind be corrected so that the companies will not do things of that kind?

Mr. RYAN. I understand that has been corrected. Is not that true, Mr. Hardwick?

Mr. HARDWICK. I think Mr. Kennedy alludes to the fact that a higher rate prevailed in an adjoining State.

Mr. MANN. It has just been changed, as I understand it.

Mr. KENNEDY. They can charge the straight rate in Pennsylvania.

Mr. ADAMSON. They will not allow the through rate to be more than the sum of the local rates.

Mr. MANN. They have changed that lately.

Mr. BURKE. Was not that on the theory that they would contest the 2-cent rate?

Mr. KENNEDY. No. After they had amended the 2-cent rate they said they were making more money on it, and they kept up that price, so that they practically put a penalty on a man if he bought a ticket in Indiana or Pennsylvania into Ohio.

Mr. RYAN. Another illustration in Ohio, particularly interesting to me, is that afforded by the Ohio Central lines, running from Toledo to Columbus and the Ohio River. The 2-cent rate has enabled this line to take some of the business from the traction lines running down in the oil fields, but this has not been sufficient to overcome the losses in the territory south of Columbus, where the population is not so dense. But what is true of these lines referred to, in the State of Ohio, is also true of all the lines in that State, namely—that the roads have not suffered where the population has been great, but they have suffered where the population has been small.

Thus it will be seen, looking at the question from whatever point of view we may, we must invariably find that the only reasonable basis of a rate exists in the density of population, which means the density of traffic. Unless this is fully recognized by legislation it will not only mean that the weak lines will suffer for the strong, but it will also mean a great blow to development, for there is nothing more timid

than capital, and investment will not be made where there are no definite promises of reward.

I can not, gentlemen, make my point too strong for your consideration, and that is that some help, no matter what a population in a zone may be as a whole—some help should be given to the line that is new and undeveloped and losing money and trying to take care of itself and preserve itself and develop its territory. I know that we are not doing it.

The CHAIRMAN. Have you any plan that you can suggest whereby the rate might be diminished—by law, I mean—where there is great density of population, and still be permitted to obtain at the present standard in the less populous territories? Have you some plan to suggest on that line? Your argument apparently has been against any change at all.

Mr. RYAN. Any change to affect us.

The CHAIRMAN. Simply because there are certain localities in which roads are located that could not bear this change or reduction, your whole argument is against anything that looks like uniformity of action.

Mr. RYAN. That is just the reason why I can not suggest anything that would mean a lower rate that would affect us.

The CHAIRMAN. Then, according to your argument, there must be no advance or progress in the lowering of rates throughout this country, simply because there is here and there a road that can not stand the reduction and be prosperous?

Mr. ADAMSON. In connection with the President's suggestion——

The CHAIRMAN. Have you any plan to suggest?

Mr. RYAN. I have not any plan that would protect the weak lines. I have not any plan that would encourage a new line to enter a field.

The CHAIRMAN. That is the great difficulty thus far in this discussion. You gentlemen have contented yourselves with assailing everything that has been suggested, without aiding us in any way by your superior knowledge toward the adoption of a plan that will work in a densely populated region and that will still give protection to your weak lines.

Mr. RYAN. Well, Mr. Chairman, I do not see how I can be of any assistance to you in proposing a plan which to me would seem to kill all of our hopes for the future.

The CHAIRMAN. Your idea is that of the graded school, that regulates the progress of every scholar by the stupidity and incapacity of the inferior scholar in the class?

Mr. RYAN. Well, I do not know that it is exactly that. I do not believe that it is your desire to continue to strengthen the lines that are already strong and to injure the lines that are now weak, and to prevent new lines from entering the field of the strong lines, because I think that is what this legislation would do.

The CHAIRMAN. That is the plan of nonaction. Nonaction strengthens the strong lines. It does not necessarily interfere with the progress and the maintenance of the weak ones; but if nothing is done the strong lines will grow stronger, because they charge these higher rates, and it does not benefit your lines in the sense of competitors. It harms yours in the sense of a competitor.

Mr. RYAN. It may be that the strong lines will continue to grow strong, which ever way you handle the rate question, because if you

impair our ability to take care of ourselves, the strong lines will get us. There is not any question about that.

Mr. ADAMSON. Mr. Ryan, I have long recognized the difficulties of which you speak, that long lines of young railroad running through the Southwest and South, through sparsely settled territory, on single tracks, are depended upon by that country to develop it, and that those lines of road labor under difficulties which, of course, are not experienced by these older and stronger lines in more populous territory; and yet there are sections even in that Southwest where conditions exist which call for improvement, either voluntarily by the railroads or by the coercion of law, if necessary.

Now, when you come in and defend all lines of railroad against a reduction of rates, instead of defending only those which could not sustain a reduction, does it not look as though you were not disposed to do anything in the way of an improvement of conditions? I am in that part of the country and I appreciate the conditions that prevail, and I have been conservative and slow to consent to any legislation by Congress that would cripple you, because I believe it would cripple my country. I have insisted upon that here and upon the floor of the House many times. But I believe, with the Chairman, that it would be better for you if you can conceive some graduated scale or plan by which justice may be done to the people who are now receiving injustice, and at the same time avoid inflicting damage upon the people who are developing the country and assisting you in your efforts to build up your line.

Mr. RYAN. Somebody else than myself will have to speak of that. With the Atlantic Coast Line and the Piedmont Air Line on either side of us, how could we do that?

Mr. KENNEDY. This committee might conceive that neither you nor your competing lines were charging too much.

Mr. RYAN. I do not believe that it is necessary for you to go back of the returns of any of the railroads of the South to-day. I do not think any of the railroads in the South to-day are earning more than you or any other reasonable body of men would say they are entitled to earn, and I think they are all in a pretty bad way, so far as earnings are concerned, even the best of them; even the Atlantic Coast Line and other old established roads. I think their net earnings have gone all to pieces.

Mr. KENNEDY. I want to refer again to the situation in Ohio. The roads you speak of as being in a thickly settled portion of Ohio are the only railroads in Ohio that have competition from the traction lines. The lines you speak of whose earnings are not increased are the roads in the southern part of the State where there are no traction lines.

Mr. RYAN. They have not the population.

The CHAIRMAN. Let me, in this connection, or in connection with the query that I put to you, remind you that all gentlemen who have appeared before this committee, when we have been discussing rate legislation, have urged that the Interstate Commerce Commission be not given the initiative in the establishment of rates. All the corporations have objected to that, and nothing of that kind has been done. But when we then attempt legislation that must be uniform in its character you inveigh against that because of its inequalities of operation. Now the Congress must either act in this matter of establishing a rate that would be uniform, or the Interstate Commerce Com-

mission or some other tribunal must be given the power so that they can differentiate between the different roads, the strong and the weak, unless you gentlemen can help us to some solution of the matter. You are the men who, above all others, are familiar with the subject and should know, if anybody knows, what can be done, so that justice can be done to the weak line as well as to the strong line. But you content yourselves invariably with inveighing against whatever is proposed, and up to this time, so far as I have been a member of the committee, and so far as I can recall, no one of you has ever made a suggestion in the way of a solution of the difficulty. Now I think that is scarcely fair.

Mr. RYAN. Mr. Chairman, I hope I misunderstood you, because I think it is wrong to assume positively and absolutely that a rate reduction is necessary, that it must come, whether by your legislative body or through the Interstate Commerce Commission. There is a very small territory now, I believe, that could stand a lower rate than now exists. I do not believe a rate reduction should be looked for by you, or by the Interstate Commerce Commission, or by the people, or by any one in the territory served by the Seaboard Air Line. I do not think it should be in any part of the South. I do not think that the travel justifies it; and the gentleman [Mr. Adamson] who spoke of his familiarity with the conditions along the Seaboard will bear me out in this, that if we have a reduction in our rates and we have to economize, we can not economize in the character of our trains, and we can not economize in our wages. We are bound by the labor unions, by organized labor bodies, to pay a certain amount to our men. The only way we can economize is by lessening the number of trains on our schedule and by cutting the expenses down in that way.

Now, I have always maintained that in a new country—a new railroad country—such as that served by the Seaboard, what the people need more than anything else is service, and we have been following that line. Four years ago, when I came to the Seaboard, the trains were earning about 60 cents a mile from passenger business. Mr. Barr, the general manager of the road at that time, was not an optimist on the passenger business. He did not think there was any money in it for the railroad, and he was in favor of cutting the service down. I told him he should not cut it down, but should make the existing trains earn more, so that there would be no loss for the road; and we have done that, and just as soon as our trains begin paying the cost of operation, not counting the share of taxes which they should contribute, and which should be included—when the trains earn about $1 a mile—we put in another train in that field, some of the new trains paying only 50 cents per mile.

Now, I think we are doing our part by the people, and I think the people appreciate it; and I think in other sections also the people would rather have that additional train service than have a reduction in the rate, which undoubtedly amounts to very little to the individual. The individual gets but a small return from it, say 15 or 20 cents to the individual on a short trip, and it does not therefore cut a great deal of figure; but with the railroad, where that accumulates, it amounts to enough to cripple the railroad.

Mr. MANN. Mr. Ryan, can you tell us what increase there has been in the passenger traffic on your road, or the lines which compose it, in the last twenty years?

Mr. RYAN. As I stated before, the Seaboard is not that old.

Mr. MANN. I said "the lines which compose it." Some of the lines were constructed before, I understand?

Mr. RYAN. It was not completed as a system fifteen years ago.

Mr. MANN. The rate, then, per mile per train was what?

Mr. RYAN. I can not go back beyond four years.

The CHAIRMAN. Mr. Ryan, what would be a compensating rate for the carriage of passengers on your road?

Mr. RYAN. I beg your pardon, Mr. Chairman; that would depend on the number of passengers.

The CHAIRMAN. I mean as it is now.

Mr. RYAN. As it is now, to make us come out even and give us compensation, it would be 3¼ cents a mile.

The CHAIRMAN. Now, if 3¼ cents in your territory, on your road, would be a fair compensatory rate, taking into account the density of population, which you have made so important a point, what would you say to the fairness of a 2½-cent rate on the Pennsylvania Railroad, for example, east of Pittsburg, taking into consideration its density of population?

Mr. RYAN. I think the Pennsylvania Railroad would be getting too much by comparison. I do not know, but we would barely pay expenses at 3¼ cents at our present business.

The CHAIRMAN. You ought to be fair with us and enlighten us. What would you say about the comparative justice of these two rates—3¼ cents and 2½ cents?

Mr. RYAN. It would be a difficult matter to explain to you. The Pennsylvania Railroad earned, according to the last statement I saw, $1.10 per train in their passenger business. It showed that the Pennsylvania Railroad, with all its immense travel and density of population, gives the people so much service that they do not earn much more than the cost of operating the trains. Now, if you compare that with ours, you would have, in my opinion, to reduce the number of trains. You could not do that. It is simply impossible. The conditions are so entirely different, the demands on the railroad are so entirely different, that you must take everything into consideration.

Mr. MANN. You have spoken several times about your road running through "a new country." It seems like a queer expression to a gentleman who was born seventy-five years after the State of North Carolina was admitted into the Union. What do you mean by the "new country" covered by the Seaboard Air Line?

Mr. RYAN. In a transportation sense it is new.

Mr. MANN. Is not that because of the fact that the railroads of the South have prevented the development of the South largely through excessive rates?

Mr. RYAN. I do not know. I think the South has——

Mr. MANN. Is it not true that the lines in the Western States, like Ohio and Indiana and Illinois and Wisconsin, have been developed for many years more than those roads have been developed in the South?

Mr. RYAN. I do not think that is the right way of looking at it.

Mr. ADAMSON. It is only in the last fifteen years that a through line was discovered through the South. I remember, before the Piedmont Air Line was established, that you had to go down to Tennessee,

through Knoxville and Chattanooga, to get to Georgia, making a detour around North Carolina.

Mr. RYAN. I do not know how long the Piedmont Air Line has been established. I think it was established about 1881 or 1882.

Mr. ADAMSON. I think it was established about 1882.

The CHAIRMAN. The hour for adjournment has arrived. Are you through, Mr. Ryan?

Mr. RYAN. I am; yes, sir; unless you want to ask me some more questions.

The CHAIRMAN. No, I think not. The committee will then stand adjourned.

[Thereupon, at 12 o'clock noon, the committee adjourned.]

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
HOUSE OF REPRESENTATIVES,
Washington, D. C., Wednesday, January 23, 1907.

The committee met at 10.30 o'clock a. m.

Present: Representatives Sherman, (acting chairman), Wanger, Stevens, Esch, Townsend, Gaines, Kennedy, Adamson, Ryan, Richardson, and Bartlett.

Present, also, L. E. Payson, esq., Hillary A. Herbert, esq., S. H. Hardwick, esq., and others.

STATEMENT OF S. H. HARDWICK, ESQ., PASSENGER TRAFFIC MANAGER, SOUTHERN RAILWAY.

Mr. HARDWICK. Mr. Chairman and gentlemen of the Committee: While I shall hold myself obedient to the wishes of the Committee, and endeavor to answer such questions as may be asked as best I can at any time, yet, as I have had the privilege of being at all of these hearings, I have thought it might be more agreeable to the Committee to let me read the memorandum which I have prepared, because in that I have tried to cover some of the points, or most of the points, or all that I could remember, that needed or seemed to me to need to be alluded to in the memorandum. And by the presentation of the matter in this way I think the Committee will possibly be saved time, and may perhaps get a better understanding of the continuity of the thought which I wish to present in this way. But, as stated, I shall at any time be glad to answer any questions which the Committee may wish to ask the best that I can.

Mr. ESCH. Mr. Hardwick, will you give your office and the road you represent, for the record, please?

Mr. HARDWICK. Yes, sir; I am passenger traffic manager of the Southern Railway.

The tremendous importance of the propositions as presented in bills H. R. 20153, H. R. 21572, and H. R. 22133 is simply incalculable.

They present at once innovations not heretofore considered by any passenger traffic official. If either of these measures were to become effective it would revolutionize the passenger traffic, the bases of rate adjustments, and the methods of conduct of the passenger traffic of this country.

What are the demands and what are the benefits of these measures? That side of these propositions has not been presented, although at the beginning of these hearings the chairman first invited anyone present who desired to be heard in favor of these measures to proceed, and no answer was made, and no one seemed to be present desiring to be heard in favor of these bills or either of them. So that while we have not had the benefit of hearing any reasons presented why such proposed measures should be enacted by Congress, we are, therefore, at a loss to know what is really to be said in favor of these measures; but we have been made acquainted with many forceful and cogent arguments in opposition to all of them.

While the same generic idea seems to run through these several measures, that idea is expressed diversely mainly in three forms:

First. In H. R. 20153 a national interchangeable mileage ticket, at the uniform rate of 2 cents per mile, is required to be unlimited as to time of use or redemption.

Second. H. R. 22133 requires that, in addition to mileage coupons for interstate passenger traffic, tickets shall also be sold at the uniform rate of 2 cents per mile.

This seems to fix the maximum rate for interstate trip tickets, as well as for mileage tickets. This measure thus specifying that the uniform rate for tickets shall be 2 cents per mile does not leave it optional with the carrier to make any reduction from the 2 cents because it plainly states the uniform rate shall be 2 cents.

It is further specified that such tickets and mileage coupons shall be good in the hands of any holder and shall be unlimited as to time of use or redemption.

The specification of this rate for tickets to be uniform at 2 cents per mile would make it impossible for the carrier to make a rate for any purpose either higher or lower than 2 cents if the rate is to be uniform.

Third. H. R. 21572 not only specifies 2 cents per mile as the maximum rate for interstate passenger fares, for tickets, or mileage books, which it says shall be the duty of every railway company to keep constantly on hand at its offices and stations, then says when, by reason of failure to do so a passenger shall be unable to purchase a ticket, the cash fare collected shall not exceed 2 cents per mile. There is no specification here how far that 2 cents per mile, presumably thus paid upon the train, shall run; that is, whether or not for such reasons a passenger boarding a train at New York shall be unable to purchase a ticket or mileage book shall pay his way through on the train to New Orleans or to San Francisco, and if so, how would it be possible for the conductor in charge of the train to collect the proper through rate? The same would be true if a passenger were to board the train at some intermediate local station or at some distant point desiring to go to New York. I merely point this out to express the impracticability of such a measure.

Furthermore, H. R. 21572 provides that when a passenger desires to buy a mileage ticket, which ticket must be kept on sale at all stations, to be good upon any railroad engaged in interstate commerce, the railroads on which these mileage tickets are to be good shall be specified therein. The author of this bill has stated in these hearings that this was intended to mean that any passenger desiring to purchase a mileage ticket which shall be good for any interstate journey, may

appear at any station in the United States and ask any ticket agent to supply him with a mileage ticket good over any number of railroads which he, the intending purchaser, may specify. Understanding there are in round numbers 950 railroads in the United States, it will be seen how impracticable such a law would be if several passengers, or I may say even one passenger, were to apply to a ticket agent at a small station only a short time before the train came along (and I beg leave here to remind the committee that the State laws generally require that the ticket offices shall be open not more than half an hour before the departure of a train)—how could such a ticket agent at such a station undertake to fill in a mileage book with the names of any large number of railroads in the United States? The congestion and delays would be manifestly greater at larger centers where there are a larger number of passengers to have their mileage books thus filled in.

The arguments made by the gentlemen who have preceded me have pointed out the impracticability of any national interchangeable mileage ticket arrangement whereby unwilling copartnership in the matter of credit and of one road expending its cash for the redemption of some more or less uncertain coupons or strips of paper which shall purport to be issued as interchangeable mileage by some insignificant and unknown railroad located somewhere in some remote part of this country merely because such a road shall come under the terms of these measures; that is, shall be engaged in interstate traffic.

The genuineness of such coupons or strips of paper thus purporting to be actual mileage issued under the terms of these measures could never be ascertained, and yet thousands of dollars in value could be demanded and collected of the solvent railroads throughout all this country; and later on, if it were found that this was entirely a counterfeit issue or fraudulent transaction, the road which had paid the money for the redemption would simply have to pocket its loss, for presumably it is not meant that Congress shall underwrite these transactions and guarantee the revenue protection of every carrier which has performed its service in good faith, and that the Government of the United States shall undertake by these measures to save such carriers harmless against such frauds and money losses.

No period of time is set for the limitation of the validity or the redemption of such mileage tickets, and no provision is made for the roads actually honoring such mileage to obtain their money, because any railroad selling these tickets to-day might pass into bankruptcy to-morrow, and yet the mileage actually issued would under the terms of these measures be obliged to be honored in any of the years to come whenever they were presented to any of the railroads in the United States engaged in interstate traffic.

No railroad could ever know what credits or debits it had actually outstanding, because it could never know when its own mileage would actually be honored, nor when it would be called upon to honor the mileage of some other railroad, which corporation might have previously passed out of existence.

On its face the proposition is to furnish mileage in the denomination of 1,000 miles, and yet there is no requirement that 1,000 miles shall be used, but the redemption feature says that these tickets shall be redeemed at any office of any railroad company whenever presented. So that a passenger need only travel 1 mile, or 50 miles, or 100 miles, and thus get the benefit of the flat 2-cent rate, which rate itself, thus

obtained, would be a discrimination and a violation of the terms of the interstate commerce law if in conflict with the tariffs which the road thus honoring this mileage had on file with the Interstate Commerce Commission and which tariffs it was bound to observe in this particular case.

Such proposed interstate mileage ticket would of itself also present many other conflicts and much confusion. For example, such a ticket sold in New York would be good for a trip to Trenton, N. J., but would not be good from Trenton back to Jersey City. It would also be good from New York to Greenwich, Conn., but would not be good from Greenwich to Stamford, Conn. Neither would it be good from New York City to Albany. It would be good from St. Louis to any Illinois point across the river, but would not be good from St. Louis to any point in the State of Missouri. It would be good from Chicago to any Indiana point, but would not be good from Chicago to any point in the State of Illinois. It would be good from Chattanooga, Tenn., to Dalton, Ga., but would not be good from Chattanooga to Knoxville, etc. It would be good from Columbus, Ga., to any point across the river in Alabama, but would not be good from Columbus to Atlanta, nor any other point in Georgia. It would be good from Augusta, Ga., to any point across the river in South Carolina, but would not be good to Savannah, Atlanta, nor any other point in Georgia. And so we might go on multiplying many hundreds of points where such conflict and confusion would prevail.

Hence, it has never occurred to any passenger man to hitherto consider seriously any such innovations in the matter of mileage ticket, and frankly stated, I do not believe that anyone, certainly any passenger man, could satisfactorily explain such apparently indefensible conditions to his patrons.

Many other impracticable and defective features of the proposed national interchangeable mileage ticket could be pointed out, but we must move along to consider the actual effect of all this proposed legislation now under consideration before this committee.

The next point seems that of proposing to establish a uniform maximum passenger rate for interstate fares all over this great country.

Manifestly if such reduction of rate as must follow the readjustment of nearly all interstate rates in this country were considered to be profitable they would be promptly adopted, or I may say, with all due respect, would have been adopted long since by the passenger men of this country, and we would not now need to be in court before this honorable body to make objections to these propositions.

Mr. ADAMSON. Major, does it bother you to be interrupted?

Mr. HARDWICK. Not at all, sir. I said that I would prefer to finish this statement, because I think that I have covered the various points; but I shall be very glad to answer any questions that I can.

Mr. ADAMSON. I want to ask you just one question, for fear I will forget it. When you have these voluntary interchangeable milage books, which you do have—and I see you are fixing up a new system now in the South.

Mr. HARDWICK. Yes, sir.

Mr. ADAMSON (continuing). When any road sells one of those books, there is no account made, or any attempt at settlement, until the coupons are taken out and turned in to the roads, and the various

roads send them in to the selling road. Then you take them up and account for them?

Mr. HARDWICK. That is right; yes, sir.

Mr. ADAMSON. I just wanted to know your system of handling those books.

Mr. TOWNSEND. Will you cover, before you get through, the proposition that they shall sell a thousand-mile book for $20, for instance, instead of $25 or $30, and then redeem the cover?

Mr. HARDWICK. I have not alluded to that particular method of ticketing, because, speaking just for myself, I do not believe in it. I believe in selling your transportation at the flat rate which is to be used. Some railroads believe, when they make a concession voluntarily to the public, that they have a right to make a reasonable regulation; and they consider that reasonable. But for myself, I say I have never engaged in that, nor do I believe in it.

Mr. TOWNSEND. Do you not think that is one of the most serious objections to the railroad practices in the past?

Mr. HARDWICK. I think that point has been raised, yes, sir; but in the South, I should say, Mr. Townsend, that we are eminently old fashioned, and we are very conservative. We are honoring now the same form of mileage book that we began to honor over forty years ago, and we have never had any complaint of it in any way, shape, or form whatsoever.

Mr. BARTLETT. So long as you have been interrupted, I would like to ask this question: I understand—I do not know that it is the fact—that the Southern Railroad and the Central Railroad of Georgia and the Atlantic Coast Line and the Seaboard Air Line have all made arrangements already, so far as Georgia is concerned, to have interchangeable mileage books.

Mr. HARDWICK. Nearly all of the roads in the South have now, beginning day before yesterday, an interchangeable arrangement on a basis of 2½ cents on a 1,000-mile ticket.

Mr. BARTLETT. I was informed of that by the agent of the Georgia Railroad when I came up here.

Mr. HARDWICK. At Macon, Ga.?

Mr. BARTLETT. At Macon, Ga.; and I was shown the mileage ticket by him and also by the agent of the Southern Railroad, and it was one that was interchangeable on almost any road I wanted to come to Washington on, or any road I wanted to ride on in Georgia, after I got back from Washington, if I had not used it up.

Mr. HARDWICK. Now, since the Southern Railway mileage has been united with that, it practically covers all that might be needed.

Mr. BARTLETT. One word in reference to your redemption of the unused part. Do you do that, Mr. Hardwick?

Mr. HARDWICK. At the present time our method of redemption—and I would like the committee to hear this—is that we sell a mileage ticket for $25, and that presupposes 1,000 miles of travel; that the passenger is to do something on his part to get that reduction; and the proposition in the first place from the railroad is that he shall use 1,000 miles. If he fails to do that within a year (which is an ample and liberal allowance), then if he wants that redeemed, we deduct from the unused mileage the actual tariff value of the mileage which has been used, and we give him the difference. But we do not redeem it

at its face value of 2½ cents because for reasons of his own, whatever they may be, he has not carried out his part of the agreement.

Mr. Bartlett. The reason I asked that question was that I got some information from Mr. Brown, upon inquiry, on that point.

Mr. Hardwick. Yes, sir; that is correct.

Mr. Bartlett. Now, one more question, and I will not ask any more. Take the instance quoted as a matter of regulation: What objection would you have, or what objection is there, to issuing one mileage ticket to be used by, say, a man and his wife? I understand that can not be done now. Why? What objection would there be to that?

Mr. Hardwick. My own idea of that, Mr. Chairman and gentlemen, is that unless you have the privilege on the part of the carrier to make some conditions on the part of the purchaser which shall be reasonable, unless you shall stipulate in that book who these parties are, then you will necessarily establish a flat rate. If it applies to more than 1 person, then why not to 10? and if to 10, why not to 100? and then why not to anybody? So we have thought, when we made this great reduction from our tariffs, that we would have a right to expect that the passenger would use that mileage himself.

Mr. Bartlett. But is it not a fact—I am not indicating that I have any bent upon the subject, but merely asking for information—is it not a fact that previous to this time, some years ago, there were 1,000-mile tickets issued to, say, business houses which were used by their traveling men, not confined to the particular traveling man that used the top of the book at the time it was issued? In other words, take the case of Waxelbaum & Co. and others in Macon.

Mr. Hardwick. Not by us, sir. We have always dealt with each man individually, when he tried to make a contract with us to obtain some concession in the way of reduction on our rates.

Mr. Bartlett. I am not confining it to the Southern Railroad. Do you not know, or do you know, that that has been done?

Mr. Hardwick. I do not, sir.

Mr. Adamson. If you sold a 1,000-mile book, and the passenger lacked 300 miles of using it up when it expired, you would give him credit for that 300 miles on a new book, I suppose?

Mr. Hardwick. No, sir; we always give him his money back. We make him a voucher, and that is a very large part of our office work here. A considerable part of it consists of our redemptions, which I want to say is not well understood by the public.

Mr. Adamson. You do not renew the remainder and let him use it the next year?

Mr. Hardwick. We have always redeemed all unused tickets or unused portions of tickets. We have always dealt with the public exactly on the square. We have never wanted to obtain one penny or retain one penny that was not ours. But we redeem this mileage outright and give that man his money; he buys a new ticket under the conditions, and then goes ahead. He is not out any money at all; but we just prefer to make it a clean-cut transaction.

Mr. Bartlett. Not to interrupt you—pardon me—you say you redeem it. As I understand it, if he uses 700 miles before the expiration of the time of the ticket, you calculate 700 miles at the 3-cent rate?

Mr. Hardwick. Yes, sir.

Mr. Bartlett. That is the way you redeem it?

Mr. HARDWICK. That would amount to $21, and he would then get the difference between $21 and the $25 that he paid for it—$4.

Mr. ADAMSON. He would get back 1¼ cents a mile.

Mr. HARDWICK. He would get back all, of course, that he was entitled to. He would get the benefit of that which he had agreed to.

The ACTING CHAIRMAN. In other words, he would be nothing out because of having purchased the ticket?

Mr. HARDWICK. No, sir; and I would like to say that a limitation of a year on a mileage ticket good on so large a system as the Southern Railway, 7,500 miles, for example, is not an unreasonable proposition. We sell him that ticket to get him to travel the 1,000 miles over our road.

Mr. WANGER. How about the 300 miles redeemed? Do you redeem that at 3 cents or 2½?

Mr. HARDWICK. For the used mileage, sir, we charge him 3 cents.

Mr. WANGER. Oh, I see.

Mr. KENNEDY. He does not lose at all; he simply neither makes nor loses by the transaction?

Mr. HARDWICK. No, sir; he does not stand to gain anything until he has used the 1,000 miles, the $25 worth of mileage.

Mr. WANGER. You have the use of his $25 during the length of time he has paid it in advance.

The ACTING CHAIRMAN. If he used 900 miles and did not use the other 100, he would be $2 ahead.

Mr. BARTLETT. Do you sell a man a straight ticket, say, from points in Georgia to New York?

Mr. HARDWICK. No, sir; we limit all transportation we sell. I think every obligation of every railroad company must necessarily be limited.

Mr. BARTLETT. I do not know whether you can do that or not if he pays full fare.

Mr. WANGER. Is this mileage interchangeable between the Southern, the Atlantic Coast Line, and the Seaboard Air Line?

Mr. HARDWICK. Yes, sir. It only began in the larger sense day before yesterday. The Southern Railway established the interchangeable mileage in the southeast many years ago, but it has always, until a few days ago, confined it to its own system and the auxiliary systems, which made it good for about ten to twelve thousand miles. We have now gone in with all the other railroads in the southeast which have engaged with us in this, and now it is good for, roughly speaking, 25,000 miles.

Mr. BARTLETT. But, Mr. Hardwick, you do not mean to say that simply a few days ago you did that as to Georgia, or that this has been interstate——

Mr. HARDWICK. Everywhere; yes, sir.

Mr. BARTLETT. But before this you have had—I will not say in any other State—but before this you have had in Georgia for probably six or eight or ten months interchangeable tickets good in Georgia?

Mr. HARDWICK. Only, sir, with the affiliated lines of the Southern Railway. We did not interchange, for instance, with the Georgia Railroad.

Mr. BARTLETT. You did with the Georgia Southern and Florida and the Central?

Mr. HARDWICK. We did with those; yes.

Mr. BARTLETT. They cover pretty nearly the whole South?

Mr. KENNEDY. Mr. Hardwick, suppose a mileage ticket should be sold by one of the roads making up this system, and 200 miles of that mileage should be ridden out on that road and, say, 500 miles ridden out on the other roads of the system, and then the book should be brought back and redeemed by the road in Washington?

Mr. HARDWICK. Yes, sir.

Mr. KENNEDY. Would it make a profit or get a rebate from the other roads?

Mr. HARDWICK. No, sir.

Mr. KENNEDY. How would that be adjusted?

Mr. HARDWICK. We do not make any profit.

Mr. KENNEDY. Where would the money go in the redeeming, when the auditor's office settled that transaction?

Mr. HARDWICK. It would be apportioned to the roads which had used the mileage.

Mr. BARTLETT. To the roads taking it up, you mean?

Mr. HARDWICK. Yes.

Mr. KENNEDY. Would they be paid full 3 cents a mile for the mileage which they had taken up?

Mr. HARDWICK. Yes, sir; which they had used.

Mr. ESCH. Do you sell more than a 1,000-mile ticket?

Mr. HARDWICK. We have a 2,000-mile ticket; yes, sir.

Mr. ESCH. Do you run up to 5,000?

Mr. HARDWICK. No, sir; 2,000 is the highest.

Mr. ESCH. Do you sell a 2,000-mile ticket at the same rate that you sell a 1,000-mile ticket?

Mr. HARDWICK. Yes, sir.

Mr. ESCH. Two and a half cents a mile?

Mr. HARDWICK. Yes, sir; $50. I would like to say that in my experience of more than twenty-five years as a passenger man connected with our system the sale of 2,000-mile tickets has been so small that it is utterly insignificant. No demand is ever made for more than a 1,000-mile ticket.

Mr. ESCH. There would not be any purpose in doing that?

Mr. HARDWICK. No, sir.

Mr. ESCH. It would simply tie up their money?

Mr. HARDWICK. Except the convenience of having a mileage book; but, as a matter of fact, they do not do that.

Mr. ESCH. Do you think that if you made it 2¼ cents that would largely increase the sales of the 2,000-mile book?

Mr. HARDWICK. No, sir. We think that the concession is just as great as the carriers can reasonably make at 2½ cents.

Mr. ESCH. I did not know but what the increased traffic resulting from a quarter of a cent reduction on a 2,000-mile ticket would be enough to make good——

Mr. HARDWICK. No, sir; I will come to that a little later.

Mr. ESCH. All right; excuse me.

Mr. BARTLETT. May I ask you one more question? Take, for instance, the rate from Macon to New York—$25. There would be no inducement for a man to buy a 1,000-mile ticket from Macon and Atlanta in the matter of saving any money, would there? It would be about the same.

Mr. HARDWICK. Not very much; and I want to say right there, on that point, that most of the long-line interstate fares of this country

are on a basis of between 2 and 2½ cents. That comes about for various reasons, which I may allude to.

The maximum rate, of course, can never in the nature of passenger traffic be the average rate, nor, indeed, can it, save in very rare instances, or for very small volume of traffic, be the actual rate obtained by any of the carriers. Competition is the first cause of this.

Nothing has contributed more to the advancement of the development or the prosperity of this country than the constant watchfulness and adjustment of rates of passenger fares as made by the carriers from the beginning of the existence of the carriers on down to the present day.

The density of population is, as you gentlemen have witnessed, the principal controlling factor of these rate adjustments, and you have seen how, as steadily as this density of population increased, the bases of rate adjustment of passenger traffic are lowered.

Beginning in New England, where the population first began to be the more dense, the reduction of passenger fares was first begun. Then observe how, as the center of population has moved westward, on even lines these passenger-rate adjustments have followed that density of population, so that now you find systems of interchangeable mileage arrangements extending, say, from New England to the Missouri River, on the basis of 2 cents per mile net.

You also see the regular rate, or what is known to the railroad men as the flat rate, per mile throughout this entire stretch of country from the East to the West is gradually being adjusted on a lower basis as the density of population increases and the patronage thus yielded from that population will justify a commensurate return for the service provided by the railroads in that section of the country.

We have yet to know—and I challenge at this point any refutation of the statement—I say we have yet to know a single meritorious case wherein an appropriate request for a meritorious occasion for the reduction of passenger fares has ever been made to any railroad in this country wherein the public was to be benefited, and the railroads have declined on such special occasion to make such reduction.

Mr. TOWNSEND. May I call your attention right there, Mr. Hardwick, to the case of the Michigan Central Railroad in Michigan? Are you familiar with that?

Mr. HARDWICK. Fairly well, sir.

Mr. TOWNSEND. You will recall that under the charter which was granted the Michigan Central Railroad Company they had the right to charge 3 cents a mile?

Mr. HARDWICK. Yes, sir.

Mr. TOWNSEND. The charter contained the provision that the legislature should have the right to repeal that charter at any time, and that the railroad should have the right to go into the courts and establish by proof what damages it had sustained by reason of such reduction. That was a special charter, not like the charters of the other roads of Michigan where there was a provision that when their earnings reached a certain amount they should be placed on the 2-cent basis. This road stood by itself in this charter. The legislature of 1900 exercised its privilege under the charter of repealing it and compelling the railroads to carry passengers at 2 cents a mile. The railroads had resisted for a long while the appeals of the officers of the State there to reduce their rate to 2 cents. It was reduced in 1900 by

law. The railroads brought suit under the provisions of the charter for $6,000,000. The suit has not yet been determined; but being somewhat familiar with it, I think I am stating within the record when I say that they do not hope to establish the fact that they have sustained any loss directly from a reduction of the rate because their earnings jumped to an enormous amount immediately thereafter, and that notwithstanding the fact that the road from Detroit to Chicago was paralleled with electric roads almost immediately. They do base it largely upon the fact that the system of taxation which existed at the time the charter was granted was different from what it was when the repeal was made, and they are alleging damages on that.

I speak of this because you say that no case has been brought to your attention where the railroad has resisted what seemed to be a just demand for a reduction of rates. It seems to me that this is a case squarely in point.

Mr. HARDWICK. I did not have that particular case in mind, Mr. Chairman, where legislative action had been taken. The point that I am making is that the railroads have voluntarily, at all times, cooperated with the public. And I repeat that, and I ask you gentlemen to run over it in your own minds, if you have any interest in such matters, and see if you know of any case where the railroads have been asked to reduced their rates for conventions or any large gathering where the public would be benefited, and where they have ever refused to do so.

Mr. TOWNSEND. Oh, I beg your pardon; I did not understand you to mean that.

Mr. HARDWICK. Yes, sir. What I meant to allude to by that, and what I am trying to present here, is that the methods of the conduct of passenger traffic in this country are not now at issue.

Mr. KENNEDY. There are no passenger organizations, are there, that would be likely to make a demand? The individual man that has to make a trip only once in a number of years, or once or twice in a year, is not likely to make an appeal for a lower rate, is he?

Mr. HARDWICK. No, sir.

Mr. ADAMSON. The drummers keep you busy, though?

Mr. HARDWICK. Because he would have no reasonable ground for doing it. The interstate fares are so low now, and so reasonable, that I do not think anyone could justify singling out any one fare and saying that it was unreasonable.

Mr. ADAMSON. The drummers keep you alive to the situation, do they not?

Mr. HARDWICK. Yes, sir; because they are organized for that purpose. I will come to that a little later.

Note the exceedingly large number of demands on the part of the people which have thus been met by the carriers in the matter of mileage-ticket rates themselves, and in every single case of national and State or Territorial application where such reductions could possibly be made.

Starting with the inauguration of the President of the United States, see the excursion rates which are made for the innumerable throngs on that occasion. And then whenever the President or any other prominent personage moves throughout this country excursion rates are made to all points wherever such stops are to be made as

will draw the people. Then look at all of the movements of the military forces of the country, whether for the United States Government or for the National Guard; and again, the rate of 1 cent per mile for the reunions of the Grand Army of the Republic, Confederate Veterans, and for all similar purposes. Then for religious and for agricultural, and commercial, and political, and benevolent, and charitable purposes. Then the rates for national or international expositions; for State, county, and municipal fairs and celebrations; commutation rate for suburban traffic, clergy and students' rates, and very many other exceedingly reduced rates running from $1\frac{1}{2}$ cents per mile down through 1 cent, three-quarters of a cent to one-half cent, and even sometimes less; and then the exceedingly important factor of low excursion rates prevailing during the winter and summer, respectively, and for many points throughout the whole year, whereby tourists for health and pleasure are attracted to all parts of this country to the upbuilding of great and worthy enterprises and the benefit of all the people. Is it thought that benevolence and enterprise may be compelled?

Mr. ADAMSON. Would it trouble you to go back there to your mention of suburban rates? Is there any fixed arbitrary rule about how far away from town those rates shall be permitted to go?

Mr. HARDWICK. It is dependent entirely upon the demands of the traffic; just as far as the people will have occasion to use such tickets. Of course a commutation rate presupposes a daily use, where a man is using it to go in and out.

Mr. ADAMSON. That would not be governed by distance?

Mr. HARDWICK. No, sir; not by distance. We vary as to that. Some points are 50 miles out; some points are 80 miles out; some points are 30 miles out.

Mr. ESCH. The commutation rate is less than your mileage, is it not?

Mr. HARDWICK. Oh, yes, sir—about half a cent a mile. It runs down in some cases as low as that.

Now, starting with the regular, or flat rates, which have been made by the respective States, in some cases 3 cents, in other cases 2 cents, and in the Far West, as has been stated to you, 4 and 5 cents, 8 and even 10 cents per mile, when even these maximum figures are considered, and all the vast volume of the passenger traffic of this country has been moved, the result, as shown in the Interstate Commerce Commission report, is an average of a little less than 2 cents per mile for handling 738,834,667 people, without, I believe, a single complaint having been made before the Commission by a single one of these passengers.

That is an average for every man, woman, and child in the country of nine and a half journeys a year. And with all this throng of people, moving like ants, running back and forth throughout this country under the rate adjustment provided by the carriers, not a single complaint has been filed before the Interstate Commerce Commission as to any unreasonableness or any injustice either as to rate or regulation.

Mr. GAINES. Mr. Hardwick, that suggests what has been in my mind all through this hearing. You understand, do you not, that the Interstate Commerce Commission now has jurisdiction to hear complaints as to whether a given rate is unreasonable or not?

Mr. HARDWICK. Yes, sir.

Mr. GAINES. As, for instance, whether it is reasonable for the Big Four Railroad to charge 2½ cents a mile and 3 cents a mile, or whatever it is, from the Ohio line on to Chicago?

Mr. HARDWICK. Yes, sir.

Mr. GAINES. And does it not seem to you that having passed a law providing that the Interstate Commerce Commission may try these questions upon the suit of any person who feels aggrieved, this proposed legislation is in conflict with the spirit, at least, of the principle of regulation?

Mr. HARDWICK. It has seemed to me so, sir; and I am trying to set that out just as plainly and respectfully as I can, just in a few minutes.

Mr. ADAMSON. But would it not be a sufficient answer to the complaint Mr. Gaines suggests to show that a law of Illinois permitted the railroads to charge 10 cents in that State?

Mr. GAINES. That is an interstate-commerce train.

The ACTING CHAIRMAN. Mr. Gaines might suggest in that connection that this bill was introduced and these hearings provided for before there was any rate bill.

Mr. HARDWICK. Yes, sir. I am much obliged to the Chairman.

The ACTING CHAIRMAN. That is, before the rate bill had become a law, in other words.

Mr. HARDWICK. If the maximum rate shall, therefore, be throughout the United States 2 cents per mile, as will be the result of the measures which you now have under consideration, then may I ask the honorable committee if they think that the railroads should still be asked to continue making further reduced rates for all of the special occasions and the general purposes to which I have referred? Or is it your opinion that the maximum rate shall be a uniform rate of 2 cents?

If, under all the circumstances and conditions now prevailing, the average rate obtained is actually 2 cents (or, I may say, a little less; it really is 1.99 cents), then, under the changed conditions of the flat 2-cent rate as the maximum, the average rate would be not more than 1.33 cents. And yet these measures state that the rate shall be 2 cents. May I ask you gentlemen how it is possible under such conditions for the carriers to obtain 2 cents even as the maximum, except for an insignificant share of this traffic?

Consider the Southern Railway for instance; for the fiscal year ended June 30, 1906, operating 7,515 miles of railroad, the total revenue from passenger traffic was $13,259,113.85. The total number of passengers carried 11,663,550. Total number of passengers carried one mile 549,518,645. Average receipt per passenger per mile 2.413 cents. These results were obtained under the present maximum rate of 3 cents per mile.

Further to show some of the loss to the Southern Railway if these bills should become effective, our mileage ticket sales for twelve months ended November 30, 1906, amounted to 56,811 books at $25 each, or $1,420,275.00—10.71 per cent of the total income from passenger traffic for one year. Should the mileage ticket rate be made maximum 2 cents per mile I estimate it would mean a loss to us of nearly one-half million dollars per annum.

If the maximum rate is reduced to 2 cents per mile for all traffic, the average rate based on the foregoing statistics would be reduced for the Southern Railway to 1.609 cents per mile, and the earnings

from the same number of passengers one mile, that is, 549,518,645, would be approximately $8,839,409.23, or a reduction in revenue of $4,419,704.62, thus making it necessary to carry 274,759,322 additional passengers one mile, an increase of 50 per cent, or a total of 821,277,967 passengers, in order to maintain the present total earnings, to be just where we are to-day. I do not think it is in the timber in our section of the country.

Mr. ESCH. You made no allowance, did you, for the possible increase of traffic by reason of the reduction?

Mr. HARDWICK. No, sir; I am just taking the number and showing what we would have to get additional, as bearing on that, to show what the increase would need to be.

Mr. ADAMSON. I suppose it is established, and the question is no longer open, as to whether it is the best and most economical policy to run so many excursions? If it is not the most economical and best policy for the railroads to run so many excursions, could you not handle this travel better if it was distributed at a common rate throughout the entire course of the year?

Mr. HARDWICK. If we knew of any such method, Mr. Chairman, we would, as I said some time ago, long since have put it into effect. But we know of no way of controlling the daily travel of passengers in this country. It depends upon so many causes that no human being can control it.

Mr. ADAMSON. There are some associations that you must respect. For instance, the Confederate and the Union veterans have sacred memories; the church folks have sacred hopes; and we have got to have all those associations.

Mr. HARDWICK. And I beg to remind the Chairman that they were provided for by the carriers without legislation.

Mr. ADAMSON. But there are a great many other excursions that sometimes appear utterly useless and nuisances.

Mr. HARDWICK. They might to some persons, but to the people patronizing them of course they seem to be very desirable.

Mr. ADAMSON. What is the fact? Do you handle that sort of traffic as conveniently and as economically?

Mr. HARDWICK. I must say, Mr. Chairman, that the railroads throughout this country are gradually diminishing the number of what are called cheap excursions where they themselves, as the carriers, have gone out to get up this additional traffic or stimulate business in that way, for the reason that they have so much of the regular traffic, freight and others, on the road that they can not very well handle this other cheap business.

Mr. ADAMSON. That is the point. Is it not true that they are obstacles to your business, and that you would rather discourage them?

Mr. HARDWICK. Yes, sir. We have cut out nearly $200,000 a year of that on the Southern Railway.

Mr. ADAMSON. That is the point I wanted to make.

Mr. HARDWICK. A great deal has been said with reference to the average number of passengers on each train and the number of passengers in each car. While it is true that the average number of passengers handled on passenger trains is below the average capacity of such passenger trains, were the traffic equally distributed on all passenger trains operated at the same time, I desire to invite your attention to the fact that some of our trains are at present carrying

their full capacity while many other trains are carrying greatly below their capacity.

The volume of passenger traffic would, as stated above, have to be increased 50 per cent in order to maintain the present basis of earnings. May I ask if a single member of this committee thinks this could be done in our sparsely settled country? Further, even if it were possible to secure this increase of 50 per cent in earnings (which I do not think any one believes would be possible, certainly we do not), we would have then to increase the present maximum capacity of our passenger trains, and as this would overtax the capacity for proper train handling the operation of additional train service would have to be provided for, and the cost of this additional service would have to be again provided for out of the passenger earnings.

The cost or expense of handling this traffic being thus compounded, it will be seen that we shall have to again compound the number of passengers to be carried and the amount of revenue to be obtained therefrom before we are actually on the same relative basis of revenue and expense as we were before these enormous reductions were begun.

With reference to the cost of handling passenger traffic it should be borne in mind that it is not the average number of passengers in each coach nor the average number of coaches on each train which the carrier has to provide for, but it is the maximum number of passengers and the maximum number of coaches which is the actual test, and it can not be urged that we would only have to increase for the average carriage of our passengers, but we would have to actually increase for the maximum number of our passengers because we should at all times have to be prepared for the maximum, and we could not safely take it for granted that we would be called on to handle either the minimum or, for that matter, the average number of passengers at any given time or length of time.

Is it not better to leave the passenger traffic rate adjustment and the methods undisturbed, relying upon past experience and the certainty of the knowledge that the passenger man himself will certainly always see to it that his rates are sufficiently low to properly induce the greatest amount of travel at all commensurate with the expenses of the conduct and proper care of that traffic?

It must be plain to this committee that no general flat rate of 2 cents as the proposed maximum could possibly be considered fair and equitable as applicable to all portions of this country. The exact conditions of each and every part of this great country must be considered.

While it has never been made known to us that there is any complaint of unreasonable charges or lack at any time in cooperating on any fair and reasonable basis, yet if such should appear there is already provided the Interstate Commerce Commission, where these matters could be heard and adjusted. Is it not manifest that so far as passenger traffic is concerned that the carriers themselves, in looking, if you please, to their own interest will also be sure to take care of the people in such traffic?

Referring to the effect of the comparative density of population, taking the States in groups 1, 2, and 3, as shown by the last report of the Interstate Commerce Commission, and note that the density of population in these three groups averages 103 persons to the square

mile. Starting with Massachusetts with a density of population of 370 people to the square mile, and New York with a density of population of 160 people to the square mile, of Ohio with a density of population of 105 people to the square mile, and so on through the remaining States composing these groups, brings the average of these groups, as stated, down to 103 people to the square mile. Then take groups 4 and 5 in which the Southern Railway mainly has its mileage, and see that the average for these two groups is 37 people to the square mile. Then consider that of these 37 people probably 33⅓ per cent are negroes, and then know that hardly more than 5 per cent of our passenger travel in the South comes from negroes, it will be seen that for passenger traffic purposes under the most favorable conditions the density of population in groups 4 and 5, that is, the States from the Potomac to the Mississippi, would be about 27 people to the square mile as compared with 103 people to the square mile north of us.

The greatest number of persons to the square mile in any State in which the Southern Railway has its mileage in the Southeast is about 50, which is in Tennessee, and the State in which is the lowest number of people to the square mile is Florida, where the Southern Railway has joint trackage rights to Jacksonville, the population in Florida being 10 people to the square mile.

Then consider in the densely populated part of our country the number of large towns which are near together, and further that the expense of carriage or passenger traffic in our more sparsely settled country is far greater than in the more densely settled, because considering alone the one item of handling baggage; for example, in our part of the country we check one piece of baggage to about every 6 passengers, and in the territory north and east of us one piece of baggage is checked to about every twelve or fifteen passengers. What is true of the South in this respect is also true of any other of the more sparsely settled sections of our country.

I also quote as information from the last report of the Interstate Commerce Commission the fact which I am sure will be surprising to you, and that is, as you will observe on page 98, the railroads which are operated in groups 4 and 5, which as stated are the States extending from the Potomac to the Mississippi, earn the lowest revenue per train mile of passenger trains of any group of the entire United States, not even excepting the group in which the arid plains of Arizona and the towering mountains of Colorado and Nevada are located, for in group 4 we earn $1.03 per train mile and in group 5 we earn $1.05 per train mile, and there are no other groups in all the United States which earn as little per passenger train mile as is earned in the South, and yet I may say truly that I am sure there is no section of the country which is provided with better passenger train facilities and service than that which is afforded in groups 4 and 5, where these least earnings are obtained.

The Southern Railway, according to the last report of our comptroller, passenger-train earnings per train mile for the fiscal year ended June 30, 1906, were $1.03. This is obtained by taking our most remunerative train, which earns $1.70 per train mile, on down to the lowest earning train, which earns 8 cents per train mile. These extremely low figures are convincing that the passenger traffic of the Southern Railway in its entirety is conducted without remuneration in the way of any profit, but it is hoped by continuing to provide this service in

the Southeast that population will be attracted and that additional developments will be made, so that the present passenger train service on the Southern Railway will in time become profitable and become more and more improved and increased.

An important consideration is the fact that the loss to any carrier in conducting passenger traffic is largest from the two extremes, first, where the branch line and local revenue is thinnest, and yet such service is operated in the interest of the people, and then, on the other hand, from the accessories of the highest-class Pullman train service, electric-lighted trains, with all the latest appliances for safety, also such as dining-car service, which is provided by the Southern Railway and many other lines for the comfort of the passengers and which is really operated at a very great loss.

I want to say that we estimate that our loss on dining-car service alone will exceed $60,000 a year, and my opinion is that it will be nearer $75,000. That is the actual loss, out of our pocket, for operating dining-car service for the public.

Then all the other features of such through service which the general traveling public now demands for any long journey, such as would be comprised generally speaking in an interstate journey, or for that matter also for even an intra-state journey.

I ask particular attention to this statement:

Then the saving of time which is afforded by these extra facilities, as for instance taking the Southern Railway between Atlanta and Washington, I estimate that in operating dining-car service, instead of stopping at stations for meals as formerly, we effect a total saving in time of seven hours out of each 24 to the general traveling public, and this is done at a very serious loss to the Southern Railway but is done to protect travel our way and to promote the best interest of the section which the Southern Railway penetrates, to contribute all we can to the sum total of the energy of the business development of our country.

Speaking with all plainness and with all certainty with reference to the section of country in the Southeast in which the Southern Railway has mileage, I know, and the gentlemen of this committee who are at all familiar with that section also know what it really needs is not a curtailment of passenger train service and efforts of development in that respect, but it needs more and more enlargement of facilities of all kinds, such as are rapidly multiplying over this whole country, notably the new passenger station here at Washington, which it is said will surpass that of any in the known world, and for our part of the country the new passenger stations which have been built in large numbers, and more are rapidly being built, in order to afford more terminal facilities for the care of this passenger traffic.

Then the enormous expense of double tracking which is now under way on many parts of the Southern Railway, and the expense of rebuilding bridges and permanent structures, and the expense of equipment, and other enormous expenses.

While it is true large increases in the volume of traffic have been realized by the Southern Railway since its organization twelve years ago, yet in that time, as you gentlemen may have seen from the letter of our president, Mr. W. W. Finley, of the 16th instant, to the public served by the Southern Railway Company, there has been nearly $100,000,000 expended by the Southern Railway alone in the Southeast for the preparation to handle its traffic; and some slight idea of the

enormous increase of expense in maintaining and operation may be gathered from this letter of Mr. Finley's, in which he says:

The present situation is:

An immense increase in all expenses, without any increase in rates—in fact, with the proposition almost universally made to decrease rates by legislative action.

The large increase in expenses may be illustrated as follows, since 1898:

Bridge timber has increased from $9.36 to $20.52 per thousand feet.

Cross-ties from 28 cents to 34.5 cents per tie.

Steel rails from $17.75 per ton to $28 per ton.

Since 1898, prices of equipment have increased as follows:

Locomotives from $11,392 to from $16,000 to $20,000.

Passenger coaches from $6,315 to $9,468.

Freight cars from $500.43 to $765.

Coal cars from $368 to $1,135.

The cost of labor has increased per mile of road from $1,621.67 in 1895 to $2,874.71 in 1906, and from $2,513.64 per mile of road in 1905 to $2,874.71 in 1906.

Taxes of the company per mile of road have, since 1895, increased 63.41 per cent.

And many other items of increase might be cited.

Mr. ADAMSON. Major, these cars and engines that cost an increased amount have also a correspondingly increased capacity, have they not?

Mr. HARDWICK. Yes, sir.

Mr. ESCH. That is due, too, to the increased cost of the rails, the increase of the weight of the rails, is it not?

Mr. HARDWICK. Yes, sir. These are the necessary expenses to take care of the traffic, and under the same rates; it matters not how they are handled.

Mr. BARTLETT. Some things have increased out of all proportion to the others. Take the matter of timbers necessary in the matter of cross-ties, and the matter of timber necessary to build cars—pine timber, for instance—that has increased largely, more in proportion than the other expenses, has it not?

Mr. HARDWICK. Yes, sir.

Mr. RICHARDSON. Major, is it not true that the Southern Railway, in its general consolidation throughout the South, has absorbed a great many railroads or branches of short lines that were actually in bankruptcy and were or about to be abandoned?

Mr. HARDWICK. Yes, sir.

Mr. RICHARDSON. And has put them on their feet?

Mr. HARDWICK. It has undertaken the rehabilitation of those properties at the greatest disadvantage.

Mr. BARTLETT. When did you say that was—since what date?

Mr. HARDWICK. 1895. In the service of nearly all my life in the passenger traffic department of the company which I represent I have never had a request made upon me for a general reduction of our permanent or flat passenger rate, except by one organized commercial body, and their views seemed to be that this reduction should be of mileage rate, and that it would be mainly desirable if confined to the exclusive class of travel which they represent; and with reference to the flat rate of 2 cents per mile I take the liberty of quoting from the report of the chairman of that organization at its last annual meeting, as follows. On page 13 he says:

Obviously under such varying conditions it is impossible to fix a uniform rate for the transportation of passengers all over the United States which would not give to some lines—and those the most prosperous—an excess of earnings, while denying the others, even in times of such remarkable prosperity as these, the revenue needed to maintain and operate their property. However indifferent anyone may be to the

effects of legislation such as this upon the railroads, they can not afford to lose sight of the constitutional rights which protect properties of this nature from reductions which prevent reasonable earnings upon the actual value of the property concerned.

I ask you gentlemen to consider the Interstate Commerce Commission's report, which shows that the average rate is about 2 cents and the average haul per passenger is about 32 miles; thus you will see that the passenger traffic of this country is not made up of the longer line travel which the measures before you seem to have under consideration, but they are made up of short journeys, which is conclusive evidence that such disastrous reductions as these bills would force upon the carriers would really benefit each traveler to a very trivial extent, and yet the great loss thus inflicted upon the carriers, certainly in our part of the country, would be well-nigh overwhelming.

I think that upon due reflection you will agree with us that the history of this country so far has justified the claim that the passenger interests may reasonably be left to the passenger men—that is, to the carriers themselves, especially when it is considered that with the tribunal of the Interstate Commerce Commission, created by yourselves, there is always an opportunity afforded for the filing and the hearing and the final adjudication of any complaints of any unreasonable or unduly high or unjust rates for passenger fares in this country. And I ask particular attention here: And then the, further very remarkable fact that practically no complaint has ever been made before the Interstate Commerce Commission since its establishment nearly twenty years ago either as to the unreasonableness or the improper adjustment of rates or the regulation of passenger traffic, whether of mileage or any other tickets.

By the gentlemen who have preceded me in submitting their views in opposition to these proposed enactments, the whole of our great country, with reference to its passenger traffic conditions, stretching from New England to the Pacific shores has been unrolled as a panorama before this committee, and you gentlemen have been made acquainted with very many of the varied and vast differences in all the conditions as between almost each and every part of this entire country, whether it shall be by contrasting the sections most widely separated or by considering even those that lie alongside each other, for it has been seen that even the comparatively narrow dividing lines of the Potomac and the Ohio rivers separate these contiguous sections of as wide differences almost as exist between the Pacific slope and Massachusetts.

Then it must appear when this committee considers all that has been thus presented that no one rate, either as a uniform rate or a maximum rate, for interstate passenger traffic may fairly be considered reasonable when applied alike to each and every part of the United States.

We respectfully submit, having all confidence in the wisdom and the fairness of this committee, that it is utterly impossible for any law to be exacted regulating passenger rates in the manner sought to be set forth in these measures which shall at once be fair to the constituents which you gentlemen represent and the patrons we serve and likewise fair to the carriers which it is our duty and responsibility to represent.

In conclusion, therefore, we make our request that until some very substantial and well-sustained complaint shall actually be made that

our present passenger fares of the Southern Railway as a general proposition for interstate traffic are unfair or unreasonable, that no issue at present be made; and furthermore, whenever such complaint shall actually be made we most respectfully request that it be submitted to the tribunal which you gentlemen have created, and that is the Interstate Commerce Commission; for there, under the law which the Congress passed for all the people, no decision concerning the reasonableness of any rate can be made until both sides—that is, the parties complaining of the unreasonableness and the parties undertaking to support the reasonableness of the rates thus challenged—shall be present and heard.

Should not this course be followed, at least until the new Interstate Commerce Commission, under the new law which has so recently become effective in its fullness, only about two weeks ago—for while the law begun to be effective August 28, 1906, it became operative in its entirety with reference to passenger traffic on January 1, 1907—shall have had the opportunity of testing its capacity to deal with and to settle these questions before Congress itself intervenes and so seriously interrupts the complete working of this law as will cause the loss and distress which we apprehend?

We hope and believe confidently that this committee will so conclude.

Mr. Esch. Mr. Hardwick, does the Southern Railway system earn any part of the mail subsidy for fast mails to the Southwest?

Mr. Hardwick. Do we earn any part of it?

Mr. Esch. Yes.

Mr. Hardwick. No, sir. That has ceased. We ceased operating the train on January 7. We did have a special train; and on that point I would like to say, just as a little personal reminiscence, that I had the pleasure many years ago, when I was stationed in Atlanta, of getting on a train at Lithia Springs and riding over to Birmingham with Senator Allison. It was the first time he had ever been South, and the conductor, as I boarded the train, said to the Senator: "Why, here is a man that can tell you about these matters that you have been asking about." I was then introduced to him, and he was asking questions about local matters. I was amazed to see how much he knew about our local conditions there, about our streams, about our coal country locally, and how much he had observed from Washington all the way down. He went to Birmingham and was there for a few days. We paid him the greatest respect possible; he was entertained, and all the honors possible to be given to him were given, both by the press and by the people locally. Afterwards he went on down to New Orleans. The following year came the first question as to this mail subsidy to which you allude, and it was brought before Senator Allison, and I had the privilege of speaking to him myself before the Committee on Appropriations of the Senate. Senator Allison said before that committee, without a single request, that he thought if there was any part of the country that ought to be encouraged by the Government it was the Southeast, because it was on the eve of development, and he knew of no way in which it could be so well developed as to give it good mail service for improving its commercial conditions with relation to the centers of the money markets and business east of Washington. And, I may say, that through him more than any one man, and because, I think, of that visit, when

the Senator himself saw exactly our conditions, the mail appropriation first became established. It was not a selfish proposition on the part of the Southern Railway.

Mr. RICHARDSON. Do you know how much the mail was expedited, for instance, by the fast mail train, say at Montgomery, Ala.?

Mr. HARDWICK. At Montgomery it was expedited practically—well, it ran from about twelve to twenty-four hours all the way through.

Mr. RYAN. Why was it discontinued?

Mr. ADAMSON. Did you not voluntary surrender it because you could not afford to run it any longer at that price?

Mr. HARDWICK. Partly so. We found great difficulty on that score, and then we felt somewhat that we were unfairly criticized, as if we were trying to get something out of the Government without returning value received, and that is the whole proposition that we have to make before this committee with reference to our passenger traffic. I stand here to say that in all my life—and I have never been anything else but a passenger man—I have never known, certainly as to our company, by any regulation or any device or any arrangement whatsoever, that we have ever sought to take advantage of the public. We have never retained one penny that did not belong to us, nor have we ever gotten anything from the public except we returned full and more than full value received. Our business is not operated in that way.

To allude again to the question of redemption of tickets, I found before the different legislatures, and even in the different courts where I have had to appear in behalf of the department that I represent, that many of them were perfectly amazed to know that a railroad company would give back anything. They seemed to think that once having gotten the money, they would naturally pocket it. We are not a dishonest body of people. We naturally want to get the money that we can for the service that we render, but nothing more than that.

Mr. STEVENS. Mr. Hardwick, I was very much amazed at the statement that you have received less earnings per passenger mile for your section than the extreme Southwest, or the Pacific mountain slopes. Why is that, when you have so much more population and not as much territory?

Mr. HARDWICK. That, you will see, Mr. Stevens, is in the report of the Interstate Commerce Commission. I think it is very largely attributable to the fact that so large a number of our population are negroes. They very rarely engage to any extent in interstate journeys—to go any distance, I mean. They just travel around a little on the cheap excursions.

Mr. STEVENS. But you people boast of the great progress you have made. Now, your people ride on trains. You have good facilities.

Mr. HARDWICK. Yes, sir.

Mr. STEVENS. People in the West do not have the manufacturing, and their agricultural enterprises are scattered, and so on.

Mr. HARDWICK. Well, those are the facts, Mr. Stevens, as given by the Interstate Commerce Commission. I simply gave you their figures; and we have a painful realization of it, as you will see if you care to look over our train-earning sheet for the year, which I have brought with me.

Mr. Ryan. Is it because of the fact that you have such a large negro population in the South that do not ride very much?

Mr. Hardwick. To a great extent; yes, sir.

Mr. Kennedy. Do you not think that these excursions, when they occur occasionally, have a tendency to keep people from going on necessary journeys; and do they not wait until the time for some cheaper rate comes? Do you not think that the cheap excursion occasionally really lessens your general business in that way?

Mr. Hardwick. In our country, as I say, having this peculiar population, the negroes, and our people not being a very wealthy people, we have felt that it was well to encourage them to travel and go to the sea shore and the mountains, respectively; and that could only be done by these very low rates. We have operated, as I have said, a very large number of trains, which you gentlemen here may look over and see.

Mr. Kennedy. Might it not be that if you had a considerably lower rate right along, travel would be stimulated there as it was, say, in Ohio?

Mr. Hardwick. It is not my information, Mr. Kennedy, that it has been stimulated to a remunerative extent in Ohio. I have the figures here of the lines, which I would like to read if you care for them.

Mr. Kennedy. I may be mistaken. I got my information with respect to that from some one right here at the end of the table, more than from anyone else.

Mr. Hardwick. There is nothing more delusive than the idea that these wholesale reductions can of themselves, as a normal condition, force an increase of travel. They will do so temporarily to a small extent, but not to any permanent extent. As of course you are aware, the center of population is a station on the line of the Cincinnati, Hamilton and Dayton Railroad.

Mr. Kennedy. In Ohio?

Mr. Hardwick. In Ohio, or in all this country.

Mr. Esch. Oh, it is in Indiana.

Mr. Hardwick. It has gone on, now, has it?

Mr. Esch. Yes; it is near Richmond, Ind.

Mr. Hardwick. Yes; it is at Richmond now, but a few years ago it was at Dayton. Anyway, we all know that the Cincinnati, Hamilton and Dayton goes through a very populous part of the country. It goes through counties running from Hamilton to Hancock in Ohio with a mileage of 10,052 square miles and a total population of 1,359,000. Now, strange to say, in the case of the Cincinnati, Hamilton and Dayton Railroad, because it is so near the center of population (it works out an average of 103 people to the square mile against, as I tried to show, between 27 and 37 in our country)—on the Cincinnati, Hamilton and Dayton Railroad, on the line from Cincinnati to Toledo, which is, I suppose, without doubt one of the most satisfactory roads for passenger traffic (it is a straight-line proposition, and has not many grades and curves, and goes through a splendid country, and ought to be able to show at the very best)—the 2-cent rate became effective in Ohio on the 10th of March last; and beginning in January and February, that line between Cincinnati and Toledo showed an increase for January of 5 per cent, and in February of 10 per cent. Beginning immediately with the 2-cent rate

in March, they showed a decrease of 9 per cent in March, 9 per cent in April, 9 per cent in May, 2 per cent in June, 1 per cent in August, and 3.5 per cent in October.

Mr. RYAN. With what are you making the comparison?

Mr. HARDWICK. I am simply showing the actual results—the effect of the 2-cent rate where it is supposed to be remunerative to the general public.

Mr. HERBERT. But with what parts of the State? You have not stated that.

Mr. HARDWICK. I said the Cincinnati, Hamilton and Dayton, running from Cincinnati to Toledo, which is the best part of Ohio—not only Ohio, but probably the best part of the country.

Mr. KENNEDY. No; you are greatly mistaken about it being the best part of Ohio.

Mr. HARDWICK. I beg your pardon—well, next to Youngstown.

Mr. ESCH. Mr. Kennedy comes from the eastern part of the State.

Mr. KENNEDY. The roads running from Pittsburg to Cleveland, and up through our valley, earn approximately $55,000 per mile of track. There are no railroads on the face of the earth that earn more than they do. They do not court the passenger traffic; they would be glad to get rid of it. Most of the passenger traffic through all of our section of the country goes on the trolley cars, and yet the other roads showed a great increase when the rate was reduced.

Mr. HARDWICK. The other reductions run down on that system through the more thinly settled sections of their branch lines, amounting to an average of 35 per cent reduction.

The ACTING CHAIRMAN. Mr. Hardwick, you are speaking purely of passenger traffic?

Mr. HARDWICK. Yes, sir.

The ACTING CHAIRMAN. Mr. Kennedy is speaking of the earnings of the road regardless of whether the traffic is freight or passenger.

Mr. HARDWICK. I am speaking of the effect of the 2-cent rate.

Mr. STEVENS. Mr. Hardwick, is not a part of that reduction caused by the competition of trolley lines?

Mr. HARDWICK. I want to say that in the case of trolley lines it is always a "wheel within a wheel." Trolley lines of themselves are the best evidence of a densely populated country. A trolley line can not be compared with a steam railroad, because its conditions are absolutely different. Most trolley lines go through the central square of the town, and on out through, round about the principal part of the town. They then buy up, as a usual rule, certain suburban tracts for residences and business development, etc. A railroad engages in none of those things. It engages simply in transportation. A trolley line can therefore transport passengers at a very low rate and make money enormously out of these collateral investments; but a railroad has nothing to make money out of except the transportation which it gives.

Mr. STEVENS. Take that same territory between Cincinnati, Hamilton and Dayton: The trolley lines are very thick in that territory, as I recall.

Mr. HARDWICK. Yes, sir.

Mr. STEVENS. Will not those trolley lines at some time—because I think there are new trolley lines being built there all the time—take

quite a large volume of that traffic away from the Cincinnati, Hamilton and Dayton road?

Mr. HARDWICK. Oh, naturally; and parts of them do already take it away. The Cincinnati, Hamilton and Dayton and its branches already show these decreases, running all the way down from 1 per cent to 45 per cent.

Mr. STEVENS. Would not the decrease have existed anyway?

Mr. HARDWICK. Of course, you know, that is something we can not say. Under the normal conditions——

Mr. STEVENS. Well, you can judge of this. That it generally happens, when there is a trolley competition between two such points as Cincinnati and Hamilton or Dayton, that the trolley line will have the preference as against the railroad, within a reasonable distance.

Mr. HARDWICK. I say, on account of the local conditions, you know, running up into town.

Mr. STEVENS. Yes.

Mr. HARDWICK. But I do also want to say that if the Cincinnati, Hamilton and Dayton management, knowing of the approach of this trolley line and this development of competition, had considered that it could meet those rates or lower its own rates and make money, it naturally would have done so. That would have been its business. You do not suppose a railroad holds its rates arbitrarily high to disable it from engaging in the full development of revenue.

Mr. BARTLETT. It meets the conditions.

Mr. HARDWICK. Certainly it does. That is my point.

Mr. STEVENS. But do you not know of cases in the States where trolley lines have been put into just such locations as this, and the railroads have lowered their rates to compete with the trolleys, and have introduced additional facilities, and yet the trolleys would get the business?

Mr. HARDWICK. Yes, sir; that is true. And, of course, the gentlemen that are more familiar with our section know that that is a fact. I allude to the railroad that runs out of Atlanta toward West Point. When the trolley line was first put out to College Park, a distance of 8 or 9 miles, the railroad met that rate. Now, of course, you know a railroad, in meeting such a rate, does not meet that rate only between the original point and the 10-mile point where the trolley line goes, or 15 miles, as it may be, but it scales every one of its rates beyond that. That is the reason it can not do those things. That railroad did try to do that, but it found it so disastrous that it finally had to go out of that competition and put its rates back to where they were.

Mr. ADAMSON. They quit stopping the trains at College Park and West Point because people would buy tickets to those points and get off and ride on the trolley car.

Mr. HARDWICK. Yes, sir; it disturbed all of that, and it was bound to be disastrous.

Mr. ADAMSON. You can not come from Union or Grange and get off at College Park or West Point now, for fear that you will buy a ticket into Atlanta and ride on the trolley car.

Mr. HARDWICK. All the trains do not do that. Some stop there—quite a number of them.

Mr. STEVENS. That is just the point I am asking you about. In the State of Ohio, during the last two years, there has been a tremendous

increase of trolley competition, and it is not fair quite yet to judge what is the effect of that 2-cent rate; is it?

Mr. HARDWICK. No, sir; and I want to say—I am glad you asked that question, because it reminds me of a very important thing I wanted to say—that not until November 1, did the lines in Ohio begin using the 2-cent rate for interstate traffic. Notwithstanding that fact, they were still getting 3 cents, or whatever it was, 2½, or more than 2 cents. They did not lower their interstate fares until beginning November 1.

Mr. STEVENS. What is your State rate in Virginia?

Mr. HARDWICK. Our State rate in Virginia, sir, is 3 cents as a maximum.

Mr. STEVENS. Established by law?

Mr. HARDWICK. Yes, sir.

Mr. BARTLETT. By Commission?

Mr. ESCH. Was not the 2-cent rate established by the Commission in Virginia declared unconstitutional?

Mr. HARDWICK. That was a mileage ticket, sir. It was established—it passed the legislature, and they have a very peculiar condition in Virginia. There is a conflict there, which has never been cleared, as to which one has the paramount right—the legislature or the Commission—to name the rate.

Mr. BARTLETT. The trouble about that was that the Commission fixed the rates at a certain amount, and then the legislature, after doing that of its own motion, wanted by itself to fix this 2-cent interchangeable rate.

Mr. HARDWICK. Yes, sir.

Mr. BARTLETT. That is the case that came up before the board.

Mr. HARDWICK. Might I say that it is somewhat similar to the situation between this committee and the Interstate Commerce Commission?

Mr. BARTLETT. Well, of course you can say it. I think probably it is.

Mr. KENNEDY. I suppose the 2-cent rate was held to be unconstitutional because it was a discriminatory rate given only to a few?

Mr. HARDWICK. It was a mileage ticket, sir. The supreme court has always held that no one may be compelled to issue a mileage ticket.

Mr. ADAMSON. While you may do some things voluntarily in consideration of certain conditions, if the Government undertakes to regulate you, it has to observe equality.

Mr. STEVENS. One question more, Mr. Hardwick: You stated that you considered it an advantage to sell a 1,000-mile ticket. Does it cost you less to issue the 1,000-mile ticket, and go through the various forms of redeeming and caring for it, than to sell a thousand miles of tickets locally, or whatever it may be? Which would you prefer to do, from the railroad standpoint?

Mr. HARDWICK. Speaking personally, for myself, I think there is no more iniquitous form of transportation than a mileage ticket.

Mr. STEVENS. Why?

Mr. HARDWICK. It is a source of the greatest fraud and depredation upon the lawful traffic. As was known, when the scalpers in Atlanta, through engaging there in some dishonest methods of securing mileage tickets from one of the railroads in Atlanta, were closed

by law, and their stock was turned over to the various railroads from which it had been more or less dishonestly obtained, in that stock was found a very large number of the stubs of the mileage books having 10 miles and 15 miles and even 5 miles unused.

Now, it is a common practice—and I do not mean to speak disrespectfully of any class of people or of labor; I do not mean to say that dishonesty belongs, in so far as railroading is concerned, in any particular branch of the service—but the common practice is for a traveler to use a mileage ticket and hand it to the conductor and slip in there a $1 or a $2 bill; and the conductor gets the ticket, and he goes on back to the baggage car or the Pullman car, as it may be, and then, later on, brings this mileage ticket back to the passenger, and the railroad does not get a single cent for carrying him. What that man has put in there simply goes into the pocket of the conductor, or the Pullman conductor, or whoever may be lifting this transportation.

Mr. RYAN. That might be done whether he had a mileage book or not.

Mr. HARDWICK. Oh, yes, sir; but a mileage book is very convenient, and the usual practice.

Again, you gentlemen are acquainted with the fact that some years ago, in Chicago, on the Lake Shore Railroad, a case was brought (and that is only one example of many thousands) where after the mileage had been exhausted, and only the mileage cover left, counterfeit strips of the mileage were inserted in this cover. The scalpers engaged in that, and the cover was all right, and it appeared to be in every way authentic: but the contents of it, the records upon which the railroad relied to get their money, were found to be counterfeit. You remember that that was brought up in Chicago, and the perpetrators there were convicted.

Mr. TOWNSEND. It always requires the connivance of the conductor—the employees of the railroad?

Mr. HARDWICK. Yes, sir; or it may be a clerk in the office of the railroad.

The ACTING CHAIRMAN. I think you misunderstood, Mr Townsend. It does not always require the connivance of the conductor?

Mr. HARDWICK. Oh, no.

Mr. TOWNSEND. Well, I mean, some railroad employee where the book is to be used.

Mr. HARDWICK. Oh, yes; it might be a conductor, or as in this case, you see. It was a railroad clerk in the general office—in the case I am alluding to.

Mr. ADAMSON. Would the danger be any greater under the legislation proposed than under the tickets you now sell?

Mr. HARDWICK. No; but we submit we have troubles enough, and we hope this committee will not add to them.

The committee thereupon adjourned until to-morrow, Thursday, January 24, 1907, at 10.30 o'clock a. m.

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Thursday, January 24, 1907.

Committee called to order at 10.35 a. m.

STATEMENT OF HON. HILARY A. HERBERT, REPRESENTING THE SEABOARD AIR LINE RAILWAY SYSTEM.

The ACTING CHAIRMAN (Mr .Mann). We will be glad to hear you now, Mr. Herbert. Please give your name.

Mr. HERBERT. Hilary A. Herbert. I represent the Seaboard Air Line Railway system.

The ACTING CHAIRMAN. Are you connected with that road?

Mr. HERBERT. Yes, sir.

The ACTING CHAIRMAN. In what capacity?

Mr. HERBERT. I am local attorney for that road in Washington, D. C.

The ACTING CHAIRMAN. You may proceed.

Mr. HERBERT. Mr. Chairman and gentlemen: These bills all relate to a uniform system of mileage over the whole of the United States—that is, the United States proper, the continental United States.

Passenger rates are the prices for services rendered. It is contrary to all human experience that the prices for services should be the same over 3,000,000 square miles of territory, especially when that territory is composed of arid lands, mountains, thickly populated regions and sparsely populated stretches of country. And it is contrary to the genius of our institutions that we should, by law, undertake to make prices uniform over such an extent of territory when naturally they are not uniform.

The Constitution of the United States is said to be, and I believe is, the wisest code of fundamental law, or law of any kind, that ever was devised by human wisdom. The fundamental idea of the Constitution is the equality of the people and of the States. In providing by law, by fundamental law, what should be done, and what should not be done within the United States, the word "uniform" is used only three times; one provision being that "duties, imports, and excises shall be uniform throughout the United States;" another "that there shall be uniform rules of naturalization;" and another that there shall be "uniform laws on the subject of bankruptcy throughout the United States."

With these exceptions this Government does not apply the rule of uniformity anywhere, I may say, except in this sense, that an effort is always made to have laws uniformly just; each and every law is adapted to circumstances. For example, our lands are not all alike; we do not treat arable land, mineral land, and arid land in the same way. The salaries we pay for services are not all alike. We do not pay a copyist clerk the same amount that we pay to a chief of a bureau. We do not even pay labor alike in the navy-yards of the United States. Labor at Pensacola and New York, even though of the same class, is not paid uniform rates. The Secretary of the Navy is instructed by law to consider the wages that prevail in the immediate neighborhood of each navy-yard. These wages are influenced by the cost of living and other circumstances. And so the wages of labor are graduated in every case according to circumstances.

Wise legislation considers the particular facts and circumstances surrounding each case. A wise law ought to be adapted to circumstances of each case and to the situation to which it applies, just exactly as a tailor-made suit ought to fit the customer. The tailor measures accurately around the waist, under the armpits, the length of the arm, the length of the leg, and makes the suit accordingly; and whenever you find a tailor that can make a suit that will fit every man in the United States then it will be time to consider making a straight rate that will be adapted to every railroad in the United States.

I know very well that these bills before you give you full jurisdiction of the whole subject-matter ow passenger rates throughout the country; and that having the subject-matter before you, you have it in your power to consider the whole question. And if you have information that will give you accurately the situation, the circumstances, the capacity, and the capabilities of every road, then you might make a general law that could be adapted to every railroad in the United States. But if you had such information before you you would find at the very outset that there was a difference between any two systems, although they may lie side by side, and although they may operate in the same zone. You would find that there was a difference that required distinct and separate provisions.

Now, I have noticed some of the legislation recommended by this committee since we have been attending these meetings, bills relating to bridges across rivers. How do you get at the facts there? They are reported to you by experts. We have engineers stationed in every single district in the United States. These engineers are graduates of West Point; they were selected from the top of their several classes because of their ability and knowledge of engineering; and when a bridge bill is proposed it is always referred to one of these experts, who makes a report to the War Department. The War Department overlooks his work and reports it to you; you take up that case and consider it with the facts before you.

You ought to have—every committee ought to have, if it were possible—just as much and as accurate expert information upon any great question you legislate upon, especially when it involves such interests as are now before you, as you have in these bridge cases. If you had that information you would find in the very outset that there was just as much difference between two railroads and two railroad systems, wherever they might lie, as there is between the plans of these bridges.

There is just one law, a natural law, that does more toward equalizing rates, in my opinion, than it is possible for this Congress ever wisely to do, and that is the law of competition. Just consider what has been the effect of that law heretofore. Railroad rates have differed very much in the past, but they are gradually coming together. You have had before you testimony showing the wide and remarkable differences that exist between sections of the country; between the West, where that system of railroad lies that is represented by Judge Payson; and the South, where the system lies that is represented by myself; and also New England. And yet you find that there is very little difference to-day between the maximum rates in New England, in the South, and in the West. It is the difference between 2 and 3 cents. There are very few railroads in the United

States that now charge—perhaps none of them, according to the testimony—a maximum rate exceeding 3 cents per mile in interstate commerce, and they are very few. If any, perhaps none of them charge lower than 2 cents a mile. That is, there is brought about by competition only a difference of 50 per cent in these roads, brought about by natural laws; and I do not believe that human legislation could expect to reach such results.

Gentlemen, you have not the time, and I am sure you have not the information, nor the time to get the information, that would enable you to make a wise, proper, and just bill that would apply over the whole of the United States; that would regulate all these railroads and fix a fair rate for interstate transportation to them all over the whole country. When, the other day, Judge Payson had read a Massachusetts decision which was applicable to this case, and which was to the effect that the State government of Massachusetts had no right by law to declare or enact that two railroads should be compelled to enter contractual relations with each other, the chairman asked whether there was an analogy between these two cases: Has the Federal Government more power or less power over interstate commerce than a State has over interstate commerce? It seems to me perfectly clear that the analogy is absolute and complete, that the State has absolute and complete jurisdiction over interstate commerce, excepting as modified by the Constitution—that is, by the fourteenth amendment, which provides that "life, liberty, or property shall not be taken without due process of law," and that the Federal Government has, on the other hand, just as absolute and just as complete jurisdiction over the interstate commerce, its jurisdiction being limited and affected only by that similar provision of the Constitution which occurs in the Fifth Amendment.

Mr. MANN. Before you leave that argument, may I direct your attention to this suggestion in order that you may consider it: A State corporation derives its power through a charter, which is a contract between the State and the corporation, and the State, through its police powers, is in a way a controlling factor in the legislation affecting the rights of the company. The United States Government, of course, can not directly require one railroad company to enter into contractual relations with another, because it has no jurisdiction over the subject at all. But the power of the General Government is not affected by the charter rights which have been granted by the State. Does the General Government have authority under its power to regulate commerce between the States, to forbid a railroad company doing interstate commerce business excepting upon certain terms which may include entering into contractual relations with another company? Will you please consider that in your argument?

Mr. HERBERT. To answer that I will go back a moment. Every State—sovereign State—that is not connected with any other State, has, by virtue of its sovereignty, complete control over commerce within its boundaries, so that a State in granting a charter to a railroad company or other corporation may fix what terms it pleases, and may make a contract with that corporation every time it grants a charter that such corporation shall do business under certain conditions. It was decided in the Dartmouth College case that a charter is a contract, and a State has a right to put specific provisions in the contract. But I was laying down the general proposition, first, that

the State has complete jurisdiction, as these remarks of mine indicate, not only jurisdiction to grant a charter, but jurisdiction to grant it on conditions.

Mr. RICHARDSON. Right there, Mr. Herbert; when the State grants a charter to a railroad, and puts in there certain restrictions, and that State stands tacitly by and sees a railroad consolidate with that railroad to which it has just granted a charter, and that State makes no objection, what is the effect then?

Mr. HERBERT. I think the effect of that is that it consents to that absorption of that road.

Mr. RICHARDSON. Can a State invoke restrictions granted in the charter after it has sat quietly by and witnessed the consolidation of these roads?

Mr. HERBERT. I doubt very much whether it could.

Mr. ADAMSON. If the officials of a State are too derelict in their duty to prevent it, are the people of that State estopped from afterwards asserting their rights?

Mr. HERBERT. I think the people of the State are estopped by what their representatives do. There always must be somebody, either the legislature, the governor, or the government, that represents the State, and therefore the people of the State, if a sovereign can be stopped at all, may be estopped by their government which represents them.

Mr. ADAMSON. The constitution of the State may declare that consolidation shall not occur, yet it does occur in a number of cases. Do you say that citizens who have a right to invoke that provision of the constitution are estopped because certain officials do not do their duty?

Mr. HERBERT. I would say clearly not in that case, Mr. Adamson, because the people have reserved to themselves in your State, Georgia, a power which the legislature has no right to take away, either by active or passive acts; by anything actively done or suffered to be done.

Mr. MANN. It is quite certain that that which they can not do by direction they can not do by indirection.

Mr. HERBERT. You have expressed my idea better than I could myself.

Mr. RICHARDSON. Does it not lead to this: As you stated, a State has jurisdiction over interstate commerce. Has it the right where commerce commences within the State and goes outside, to prescribe a charge or rate for a railroad from the beginning of the transportation of that commerce to the State line?

Mr. HERBERT. No, sir. It was decided in the case of the steamboat *Ball*—I don't remember the first name—but in that case it was held that whenever freight begins to move from one State to another, and is directed to another State, although the company that is chartered to do business within the State only holds itself responsible for the freight while it is within the State, yet if the freight begins to move upon that line and is directed to another State, and its destination is through that State and to another State, then it is interstate commerce, and the State can not regulate it. From the time such freight begins to move it is a subject of interstate commerce, and, therefore, subject to the jurisdiction of the United States. But, gentlemen,

you are leading me away from my answer to the question propounded by Mr. Mann.

Mr. RICHARDSON. Have you given any attention to the fact as to what the real proportion is, in your judgment, of the commerce that a State actually controls as compared to the commerce controlled by the Government in interstate commerce?

Mr. HERBERT. I could not undertake to give you the proportion.

Mr. RICHARDSON. The jurisdiction that the State has in commerce must be very small.

Mr. HERBERT. Well, I should not say very small, but relatively small.

Mr. RICHARDSON. Not over 15 per cent.

Mr. HERBERT. I do not remember the percentage.

Mr. MANN. It was stated to me last summer by a railroad auditor—but who I thought was mistaken at the time—that the intrastate commerce would amount to over 60 per cent.

Mr. RICHARDSON. My information was that it did not exceed 15 per cent.

Mr. BARTLETT. I think you will find in the report of the Interstate Commerce Commission of either 1898, 1899, or 1900 that the interstate commerce is over two-thirds. That is what they reported to Congress.

Mr. MANN. That was my impression, but this gentleman who was well informed as a railroad officer said that it was over 60 per cent.

Mr. HERBERT. That question of the proportion between interstate and intrastate commerce is a matter of importance only to this extent, that an answer to it would show that the jurisdiction which you exercise over interstate commerce is very important. I think that is all that the answer would show.

Mr. RICHARDSON. That is all it is intended to show.

Mr. HERBERT. The question was asked by the chairman whether the Government—this Congress—would not have the right, in regulating commerce, to fix conditions and to say that commerce shall not be regulated, it shall not be carried on—that is, interstate commerce—excepting upon this condition or that condition. My answer to that is that your power to fix conditions is no broader, not a bit, than your power to enact a straightforward law.

You can not do by indirection what you can not do directly. If you have no power to enact that a given contractual relation shall be entered into between A and B, then you have no right to enact that they shall not do business unless they make such a contract, because then you would be doing just exactly what the courts have always said no legislative body can do. You will have exercised power by way of fixing conditions that you could not exercise directly. I think that is the answer to it.

The Constitution of the United States divided the jurisdiction between States and the Federal Government when it said that the Federal Government, that Congress, shall have jurisdiction over interstate commerce, jurisdiction over commerce between the States and foreign commerce. There was a grant of power to Congress, and that granted all the power that was over interstate commerce. All the power that the State had over that subject-matter was granted to Congress, and all the power that it did not grant over commerce was held in its own hands, and that is the power over intrastate

commerce; and one is just as complete and as absolute as the other. Both of these jurisdictions are subject to whatever other constitutional provision may bear upon them. There is no constitutional provision that I know of that bears upon either of them—that is, in the Federal Constitution—excepting the fifth amendment, which applies to the Federal Government, and the fourteenth amendment, which applies to the States.

There is a curious contrast between the circumstances under which these two similar provisions were adopted. In the first place the States, when they were forming the Constitution, were afraid of the General Government—afraid to trust it with too much power, and therefore they refused, some of them at least did, or enough to have prevented the Union from being formed otherwise, to ratify the Constitution without these twelve amendments. The fourteenth amendment contained the provision: "Nor shall any State deprive any person of life, liberty, or property without due process of law."

Mr. BARTLETT. Mr. Jefferson says that while they did not refuse to ratify, the understanding tacitly was that these amendments could be offered in the next Congress, and it was done. He said that when the Constitution was submitted to him—he was abroad at the time and took no part in the Congressional convention—and that they suggested some of these amendments, and they were passed at the first Congress with that tacit understanding.

Mr. HERBERT. I think they were all passed, every one of them, before Rhode Island was admitted, and before North Carolina came into the Union, so that my proposition is correct, the Union would not have been formed as it was without these amendments. It was understood by all of the States, when they were adopted, that something of the kind would be adopted. At any rate the fifth amendment was adopted at the very beginning, and it was applicable to the Federal Government.

The States being afraid of the exercise of power by the Federal Government, said: "Nor shall life, liberty, or property be taken without due process of law;" then we went on, and there finally came the great conflict between States rights on the one hand and Federal construction on the other—the civil war. The fourteenth amendment was proposed while some of the States were practically out of the Union—that is to say, the Congress said: "We are afraid to let you come back here without some amendment that will limit your power in the future, and we are not going to let you in unless you will adopt these amendments," and they did adopt the fourteenth amendment before they came in. So, I say, in this case, the Federal Government was afraid of the States, and it put that same limitation on the States. They copied it from the fifth amendment: "Neither life, liberty, nor property shall be taken without due process of law;" so that the provisions are practically identical; and these two provisions are the only limitations in the Federal Constitution, so far as I know or can think of now, upon the power of the States or the Federal Government. You have got the same power that the States have, you have the same power over interstate commerce that the States have over intrastate commerce, speaking generally, and any State decision that applies to the power of the State government over intrastate commerce, will likewise apply to the power of this Government over interstate commerce. I think the decision of the

Virginia court of appeals is in point, and the Massachusetts case is in point.

Mr. BARTLETT. May I interrupt you? I was not here when Judge Payson called attention to the Virginia court of appeals case. Have you got that case there?

Mr. HERBERT. I have not.

Mr. BARTLETT. Did they decide that the question of constitutionality as governed by the fourteenth amendment?

Mr. HERBERT. Not in that case; the fourteenth amendment was not involved.

Mr. BARTLETT. Did they decide that?

Mr. HERBERT. No; I don't think they did, because in every State constitution there are similar provisions about life, liberty, and property not being taken away; and there is one good reason why—I don't know whether the decision gave it—a State could not force one railroad to have contractual relations with another—that it would be taking away the natural liberty of the person, the corporation—the corporation is a person.

Mr. BARTLETT. Do you think a corporation has an inherent right to natural liberty?

Mr. HERBERT. Yes, sir; liberty of that kind, yes—liberty to contract. I think it would apply to liberty to contract. You can not compel a corporation to contract unless you reserve that power in the charter, any more than you can compel an individual to contract with another.

Mr. KENNEDY. But two connecting lines, making a line over which the consignee sends his goods—the railroad that takes them and carries them to the connecting point, when it delivers them from the other line—must be held to be agent for the consignee, and the other line must pay; so that there is some sort of relation within the statute and by law between the consignee and both of those lines. They occupy at least a contractual relation with the consignee.

Mr. MANN. Well, I didn't know but what you had examined it.

Mr. HERBERT. I did not consider that particular point.

Mr. KENNEDY. There is another clause of the Constitution that gives to citizens of the several States all the rights, privileges, and so on, of any particular State. That is not the language, exactly; but could a railroad in any one State refuse to take goods that were consigned by a citizen of another State?

Mr. HERBERT. Under that provision, that being a common carrier in, say, the State of Alabama——

Mr. KENNEDY. Suppose a citizen of Texas, by means of a connecting road that goes into the State of Alabama, consigns goods over that road. It would be compelled to carry them, would it not?

Mr. HERBERT. It might be possible, Mr. Kennedy, that the tenor of that provision would compel a road, if it was a common carrier in the State of Alabama, to carry goods also for a citizen of the State of Texas; that is possible.

Mr. KENNEDY. In that sense, when a State charters a road, it acts as the agent of the whole American people, and not of the people of the State.

Mr. HERBERT. I do not see the value of these questions directly upon the point at issue, as to whether or not the Government has a right to make one railroad become the banker for another.

Mr. HERBERT. Of course they do.

Mr. KENNEDY. They are compelled by law to take it.

Mr. HERBERT. I don't believe, Mr. Kennedy, that the Congress of the United States has any power to create interstate commerce; they can regulate it.

Mr. RICHARDSON. Right in that connection, where Congres has not the power to direct the contractual relations between the two common carriers, would not the doctrine come in that if one of the common carriers refused to make those relations, would not the common law, inasmuch as the common carrier held itself up to public business, require the common carrier to transport that freight?

Mr. HERBERT. I do not believe that you can compel a railroad company to enter into interstate commerce unless it desires to do so.

Mr. MANN. It is your opinion that the operation of the railroad-rate law enacted at the last session, authorizing the Interstate Commerce Commission to establish through rates, is unconstitutional?

Mr. HERBERT. I think it is constitutional. Certainly, when applied to railroads that are already in interstate commerce, if it went to the extent of asserting that it could compel railroads to engage in interstate commerce that were not already engaged in it.

Mr. MANN. But it compels railroads to enter into contractual relations.

Mr. HERBERT. I do not think so. They have already entered into contractual relations when they agree to transport for each other.

Mr. MANN. The bill, I believe, has authorized the Interstate Commerce Commission to establish through routes, although the railroads themselves may decline to do so, as they have in some cases.

Mr. HERBERT. I would not like to express an opinion upon that question.

Mr. KENNEDY. I do not think there is any sensible reason why we should make any such law. I think the passenger would be fully protected if he can have his ticket redeemed by the road issuing it.

Mr. HERBERT. I can see that under certain circumstances a railroad in a State could be bound, whether it wished to do it or not, to carry for another railroad in another State, and therefore involuntarily engage in interstate commerce. But even if I conceded that, it does not concede the rights that are asserted in the bill before you, particularly the Sherman bill, the right to make one railroad redeem the tickets that have been issued by another.

Mr. MANN. I don't think that any time has been wasted in discussing that point, but on the question of the rights of one railroad to accept interchangeable mileage tickets issued by another, that is another proposition entirely.

Mr. HERBERT. It is true that some of the bills here, I believe the bill of Mr. Kennedy, confines the redemption to the road that issues.

Mr. MANN. Mr. Sherman himself stated that that was his own idea.

Mr. HERBERT. Then we need not discuss that question.

Mr. MANN. No.

Mr. KENNEDY. So far as I am concerned you need not, because I do not think there is any necessity for any such drastic regulations as that. I do not think there can be any reason given for it; it is too extreme.

Mr. Herbert. Whatever may be the bearing of these questions which you have propounded to me, some of which I did not anticipate, I don't know that I am able to answer them satisfactorily to myself. As I understand these decisions, first, by the United States Supreme Court in the case which you all remember—I do not remember the name of it now—that no State had a right to sell to one person, who was able to pay for it, a thousand-mile ticket, and thus prefer him to other people who were not able to pay for it.

Mr. Bartlett. That is the Michigan case, but that was the construction of a State statute, however.

Mr. Herbert. That was the construction of a State statute, but the particular principle laid down by the court in the Michigan case, it would seem to me, would cover the proposition in all these bills, and the decision of the Virginia court of appeals is also precisely, it seems to me, upon that point. But I go on now upon the supposition that it is in your power to avoid the constitutional objections that have been raised and decided by the courts as conceded, inhibiting 1,000-mile tickets as provided for in these bills, and that possibly you may avoid the force of these cases by a straight 2-cent rate, applied universally or to zones. Gentlemen, if you have that power it is an immense power. The greatest railroads of this country would be subject to it, and the most insignificant, the smallest, and the weakest would also be subject to it, and these have a right to claim your protection, your careful consideration. Have you the knowledge that would justify you in entering upon the Herculean task of framing a 2-cent bill, or any bill like it, that would apply all over the United States? You have spent here so far, I think, about sixteen hours in the consideration of this question. You probably will not have during this session more than sixteen hours more.

If you take that time—16 hours more—from your other and varied duties, and devote it to this question, will you be able to get all the information that would enable you to be just and fair to all of these railroads, the strongest as well as the weakest? Gentlemen, the officials who represent these roads, some of whom have testified before you, have spent their lives in the study of this question. Mr. Hardwick, who yesterday testified before you, I knew as a young man twenty-five years ago, when he first entered this service. He has been studying that matter from that time up to this. I have studied too, as hard, perhaps, as he has, but in other lines. I would not undertake to say that I could judge of what would be fair and just to a railroad as well as Mr. Hardwick, as, although during my life I have studied a great deal more than he has, because my life has been much longer; and I do not think that you gentlemen could say, any of you, that you are really experts on this question.

The question has been asked here, once or twice, as to whether or not the railroads have not been frequently mistaken; whether it would not be better for them to reduce rates more rapidly than they have, on the ground that a reduction of rates increases travel. The most familiar illustration of this principle that I know of, and the one which perhaps has had the greatest effect on legislation, was known as the Rowland Hill bill, which, I believe, was in the Parliament of Great Britain. At any rate, whether I have the facts or not, Rowland Hill was the great mover in the matter, and the question was whether

the postage in Great Britain could be brought down from the high rate at which it was (something like half a shilling) to a penny—whether it was possible to reach penny postage. The contractors said not. Parliament insisted that it was possible. One reduction after another was made, and, finally, Great Britain reached penny postage, and it proved that the Parliament was right. The amount of mail matter increased so rapidly that penny postage was found more profitable than a higher rate. Our Congress took up the same idea, and acted upon it, but we overworked it. I can recollect when the postage was 10 cents for 400 miles, and 5 cents for under that. But there came reductions, first down to 3 cents and then down to 2, the point where it is now.

But it was found that it still remained profitable; it was a good thing for the country, a good thing for the people, and Congress carried on this good thing until it became a great burden on the Government. They have reduced the cost on mail matter—that is, second-class matter—so that now every year you have to appropriate millions of dollars for a deficit in the postal appropriation. The penny postage idea has been overworked.

Now, do you not suppose, gentlemen, that these railroad men have in their minds all the time all these examples? They have been striving to reach, what Judge Payson the other day very aptly called, the revenue point. What is the revenue point? This question would imply that the railroads do not know and that you do. They are studying all these examples; and we had testimony here the other day that the Chesapeake and Ohio, when it found that at a certain point on its road it was not competing successfully with the trolley roads, undertook to compete with them. They made the experiment, tried it for a year—perhaps for two years—and found it could not be done; that it was impossible to do it. Then the question was asked here whether it would not have been better if this railroad had prevented the building of these trolley lines by making this low rate between those points beforehand. The answer to that is twofold. One, that if that railroad had kept up that general rate along that 10, 15, or 20 miles, or whatever it was, they would have been obliged to extend it eventually along the whole line. The other was, that on certain classes of travel it is impossible for railroads to compete with trolley lines. A trolley line will take up a passenger at any place in the street, carry the passenger to any street crossing outside of the city; and, then, the trolley roads are not as expensive to construct or maintain, and not as expensive to operate.

Mr. Adamson. I suppose you heard the chairman the other day ask a witness if he had thought of the question of the graduated arrangement of rates. Now, I appreciate as fully as you do the difficulties on your road and certain other roads of a similar character which run through a similar country, and I was extremely conservative about consenting to legislation regulating the railroads, because I feared that the brunt of it would fall on those particular sections and endanger them, and I thought those railroads were trying to develop the country as well as build up themselves. Have you thought about the question that the chairman asked as to whether or not the roads could arrange to acommodate the rates to the varying conditions in the different sections of the country?

Mr. HERBERT. I alluded to that a while ago, in speaking of the difference between roads in the same zone.

We have some concrete examples here before us. Take the State of Ohio, Mr. Kennedy's State. We understand that a 2-cent rate bill has been paseed there. If there is any State in this Union that is homogeneous, that is everywhere a populous State, it is Ohio. Mr. Kennedy and Mr. Hardwick differed the other day about which was the most populous and best portion of Ohio. Perhaps Mr. Kennedy and a citizen of almost any other portion of Ohio would differ about that. I am alluding to this only for the purpose of showing that Ohio is a great State without any great mountain ranges in it, no swamps, no arid land, and therefore if there is any place in the world where a 2-cent straight rate everywhere would apply and do exact justice it would be Ohio, and yet we find the figures are that the effect of this 2-cent rate in Ohio has been to bankrupt some roads, or to hurt at least one. Perhaps that is not a very glaring example, perhaps the injury that has been done to that one road or two roads as the case may be, is not very serious. How that may be I do not know. But even this result shows how difficult it is to make a uniform rate apply to different roads when we take this State, in which every county was represented in the legislature, every section of the country through which any road ran. The Ohio legislators must be presumed to have had knowledge of the situation before them; they had sources of information as a local government in that State which you could not possibly have as to the whole United States. And yet the effect of the act which they passed was to benefit some roads and injure others. If that was the case in that one State, how much more would it be the case, how much greater would be the different effects of a 2-cent rate, or of any other straight rate that might be fixed as a maximum to operate over the whole United States, or even in different zones.

Take another case. In the case of Smythe *v.* Ames, decided in the Supreme Court of the United States, I think is the greatest opinion that has ever been delivered by that body or any other on the question of interstate commerce. One of the questions raised was that the rates in Iowa were higher than they were in Nebraska, and these two States adjoined each other. Some of the roads that were before the court ran through two States, and the rates on the same road were different in the two States. What did the Supreme Court say about that? Here is the opinion upon that point, written by Judge Harlan (reads):

But they are not necessarily bound to give absolutely the same rates to the people of all the States, for the kind and amount of business, and the cost thereof, are factors which determine largely the question of rates, and these vary in the several States. The volume of business in one State may be greater per mile, while the cost of construction and of maintenance is less. Hence, to enforce the same rates in both States might result in one great injustice, while in the other it would only be reasonable and fair. Comparisons, therefore, between the rates of two States are of little value, unless all of the elements that enter into the problem are presented. It may be true, as testified by some of the witneses, that the existing local rates in Nebraska are 40 per cent higher than similar rates in the State of Iowa. But it is also true that the mileage earnings in Iowa are greater than in Nebraska. In Iowa there are 230 people to each mile of railroad, while in Nebraska there are but 190; and, as a general rule, the more people there are the more business there is. Hence, a mere difference between the rates in two States is of comparatively little significance.

That is to say, Judge Harlan and the Supreme Court held in that case that in these two States which were side by side and in which the relations of the population to the square mile were as 190 to 230, the company was not bound to have the same rates; that it was justified in putting, and it was right and fair to put, the rates in one State with its 230 population to the square mile higher than in the other State that had 190 population to the square mile.

Now, then, to consider in that light some of the testimony that is here before you. Take the Seaboard Air Line. Here is a map of it [exhibiting a map]. If you gentlemen will look at it, you will see that those red lines represent the Seaboard Air Line. You will see that it runs down into the States of North Carolina, South Carolina, Georgia, Florida, Alabama, and that it has more mileage in Florida than any other railroad. The population in Florida is 37 to the square mile. Mr. Hardwick told us yesterday that if you would allow for the fact that the large portion of population down there were negroes, consider the low percentage of traveling that they do, and compare it with the percentage of travel that the white people do, it would be fair to say that there are only 27 to the square mile in the State of Florida. In New England there are 430 to 450 to the square mile. There they have a 2-cent rate.

Now, according to this decision of Judge Harlan, if the difference between Nebraska and Iowa would justify a difference of 40 per cent in the freight charges, is it not astonishing that we can charge only 50 per cent more down here for through travel, for our maximum rate, than in New England?

Mr. MANN. You refer to the population of Florida. Is it not a fact that a very large proportion of the travel in Florida is by transients?

Mr. HERBERT. Yes.

Mr. WANGER. Is it not also true that a large part of Florida is not penetrated by railroad systems? The part in which the railroads are located has a heavier population than the average.

Mr. ADAMSON. I think the longest line in Florida is one that the transients do not patronize—from Jacksonville west to Chattahoochee.

Mr. HERBERT. The tourist travel to Florida goes down upon the east side generally, some going down to Tampa, but most of it to St. Augustine. This travel is divided between the three roads that are bidding for southern trade generally, the Southern, the Atlantic Coast Line, and the Seaboard Air Line. Mr. Ryan testified here that this Florida tourist travel that we are competing for does not pay expenses. We are trying to get our share of it. Ours is an enterprising road, but we have to have expensive trains, and we have them in order to compete with these other railroads which have expensive trains. We put them on and we run them at a loss; so that does not help out the case against the road and does not militate against the comparison I am seeking to make. That kind of travel does not help us out.

Mr. MANN. If it is a fact, of which I have no doubt, that the travel from the North to Florida is carried by you at a loss, do you think that you ought to continue that and make up that loss out of the local people in Florida in intrastate travel there?

Mr. HERBERT. I am coming to that point in the course of my argument.

Mr. ADAMSON. The argument here in justification of these fine trains in the North is that those rich fellows could afford to pay. You ought to make millionaires pay for that class of trains, on that argument.

Mr. HERBERT. We have found that millionaires are about as sharp on a bargain, probably a little sharper, than the people who are not millionaires.

Mr. ADAMSON. The justification for those trains was that the people who patronized them were people who could afford to do it.

Mr. PAYSON. But that only applied to trains given a special and additional increase in speed, such as the Twentieth Century Limited, on the New York Central and Lake Shore Railroad, and the Pennsylvania special; not to trains to which everybody had access.

Mr. HERBERT. If we could find a way to make those trains pay we certainly would do it. We have not been able so far to do it.

I was quoting from that case of Smyth *v.* Ames, which I said I thought was perhaps the greatest of our railroad decisions. I would like to quote another extract from it. This extract relates to the power of the State, and is to the effect that it can consider only domestic rates. I will read it. [Reads.]

> * * * The State can not justify unreasonably low rates for domestic transportation, considered alone, upon the ground that the carrier is earning large profits on its interstate business over which, so far as rates are concerned, the State has no control. Nor can the carrier justify unreasonably high rates on domestic business upon the ground that it will be able only in that way to meet losses on its interstate business. So far as rates of transportation are concerned, domestic business should not be made to bear the losses on interstate business, nor the latter the losses on domestic business. It is only rates for the transportation of perons and property between points within the State that the State can prescribe; and when it undertakes to prescribe rates not to be exceeded by the carrier, it must do so with reference exclusively to what is just and reasonable, as between the carrier and the public, in respect of domestic business. The argument that a railroad line is an entirety; that its income goes into, and its expenses are provided for out of, a common fund, and that its captalization is on its entire line, within and without the State, can have no application where the State is without authority over rates on its line, and can only deal with local rates and make such regulations as are necessary to give just compensation on local business. (Smyth *v.* Ames, 169 U. S., 539–542.)

Now, that asserts the proposition that a State court or a State commission, in dealing with domestic commerce, can consider only domestic commerce, and can not consider the interstate commerce. Each must be considered by itself. Each forum must confine itself to matters within its own jurisdiction. The converse of that is true, and that is, Congress can consider only interstate commerce, interstate traffic, and can not consider domestic traffic. But here, in the case of the Seaboard Air Line Railway, the evidence that you have before you relates to all the income of the roads from interstate commerce, and intrastate commerce as well, and that evidence is that during the last six months, its total income being taken into account, there was a deficit in the outcome of the road, and that I want you to bear in mind.

Mr. KENNEDY. Suppose this committee should make an amendment to these bills that would say: Fix the rate on all roads having gross earnings of over $25,000 a mile of track at 1¾ cents per mile;

those having gross earnings between $15,000 and $25,000 per mile of track, 2 cents per mile; those having between $10,000 and $15,000 gross earnings per mile of track at 2½ cents, and those having gross earnings of less than $10,000 per mile of track, 3 cents?

Mr. HERBERT. Mr. Kennedy, would you make those gross earnings apply to interstate or intrastate traffic, or both?

Mr. KENNEDY. Make it apply to the gross earnings.

Mr. HERBERT. Then, if you did that, it would possibly be subject to the objection under this clause that I have just read, that Congress is basing its action——

Mr. KENNEDY. It would simply classify the roads. It can classify the roads in any way it chooses.

Mr. ADAMSON. If Congress passes a bill, it does not have to specify upon what it bases its action.

Mr. KENNEDY. It would simply classify the roads, which it can do by any other form of words.

Mr. HERBERT. It seems to me that if you made that classification on that basis, it would possibly be subject to the objection——

Mr. KENNEDY. It would not affect your line.

Mr. HERBERT. I don't know that it would not. We would be very glad, if any legislation is passed, to be let out of it, of course.

Mr. MANN. If the Supreme Court of the United States should hold that a rate fixed by Congress, and the validity of it, depended upon whether it was confiscatory, how can the Supreme Court determine that based merely upon interstate commerce without considering intrastate commerce?

Mr. HERBERT. Just exactly as in the Nebraska case that I have just read to you. The Supreme Court decided that case, turning on confiscation, entirely upon the evidence before it in relation to interstate commerce.

Mr. MANN. You were quoting from the opinion of Justice Harlan. That did not have very much to do with the actual decision in that case.

Mr. HERBERT. I know of no case in which the contrary of this has been ruled.

Mr. MANN. If they can not determine upon the gross earnings of the road, how can they declare the rates that we fix confiscatory? It is not confiscatory unless it confiscates the property, or tends to. They can not determine that by determining one source of income without considering all the sources of income.

Mr. HERBERT. In answer to that question I will say that this was not an obiter dictum, because the testimony before the court there that the Nebraska rates were 40 per cent higher than the Iowa rates was relied upon as material to the issue, and they decided—and that testimony related entirely to intrastate commerce—on those facts decided that the rates fixed were confiscatory, and they did not consider the earnings of the road upon interstate commerce at all.

Mr. MANN. I did not want to stop to argue that case, I am entirely familiar with it.

Mr. HERBERT. That is my understanding of it.

Mr. KENNEDY. They held, as a matter of fact, that the Iowa rates fixed for Nebraska were too low.

Mr. HERBERT. They did.

Mr. KENNEDY. That decided no other question, excepting the question of fact.

Mr. HERBERT. It decided the other question, also, that was directly in the case, that the 40 per cent difference did not affect the question, because the circumstances justified 40 per cent higher in Nebraska than in Iowa.

Mr. KENNEDY. That is true, and that is simply a question of fact, not of law. That held that the sparse character of Nebraska made even that higher rate confiscatory. That decided no question of law excepting the main one.

Mr. BARTLETT. They decided in the case that it was confiscatory.

Mr. KENNEDY. That it was too low.

Mr. HERBERT. Look further at that case. The legislature of Nebraska had passed an act that applied to all railroads within the State equally. Those rates aggregated amounted to 29½ per cent reduction. There was an example of a straight cut like that which has been proposed in these bills, but it was a straight cut that applied only over Iowa. Even in that case the facts and figures before the court showed that the reduction did not affect all the railroads alike: that all of them, except one, would be deprived of earnings over expenses, but that one or more perhaps would earn expenses.

There was another illustration of what the straight cut would do. Gentlemen, a good many of you recollect the Morrison bill. I do not believe any of you who are now here, excepting Mr. Payson——

Mr. ADAMSON. Suppose that either you voluntarily or Congress compels you to put in a 2-cent rate in interstate commerce. That would apply to all tourist transportation such as you were speaking of a moment ago as developing Florida. Would it not to some extent palliate the demand in the various States for the local rates?

Mr. HERBERT. I am rather afraid it would aggravate it.

Mr. ADAMSON. Isn't it a thing liable to hurt you—this local action of States? Would it not be better for you to accommodate through travel—tourist travel—in interstate commerce, and avoid putting in a local rate, so that you can get the 3 cents on local travel?

Mr. HERBERT. My idea is that it would not have the effect of palliating the demand, but that the result would be precisely the reverse; that the State legislators who are in favor of the reduction of rates would point to the fact that the Congress of the United States, considering the whole question, has decided that on interstate commerce passenger-traffic rates were too high, and had reduced them. They would say it follows that these State rates are too high, because they are now rather more than on the interstate traffic. The fact is, we are threatened with reduction in both directions.

Mr. KENNEDY. So far as travel is concerned, it would be rather difficult to hold that any passenger travel in a State was not interstate commerce. For instance, a drummer engaged for a New York house lives in a State. He travels from one town to another in that State in that business and never goes out of the State. That would be interstate commerce. He is engaged in New York on business carried on in New York. His travel is in the State, but in a business that is distinctly interstate commerce. It would be impractical to have two rates, for if we fixed one rate it would have to control the State rate.

Mr. HERBERT. It would go far toward controlling the State rate.

Mr. ADAMSON. It depends upon whether you do it or the Government does it. You can voluntarily reduce these rates; but if the Government goes into that business it must make it equal between all classes.

Mr. HERBERT. I do not see any necessity for making the rates straight everywhere.

Mr. ADAMSON. We have either got to do that or adopt some system of graduation, such as we have been talking about—a classification.

Mr. HERBERT. The railroad companies are engaged all the time in such reductions. We had in Florida rates as high as 5 cents a mile, but even they did not pay.

Mr. ADAMSON. Yes, I remember 6 cents, and it did not pay. The road went into bankruptcy.

Mr. HERBERT. A case came up in the supreme court of Florida. About twelve or fifteen years ago a law was passed in Florida reducing passenger rates to 4 cents on all roads. The roads concluded to make a case, and they did it. This case arose on a railroad that ran from Pensacola to River Junction. The State went before the court to recover penalties. The plea of the road was that at that time, with the rate of 5 cents for passengers, which it was charging for freight and passengers, it did not make running expenses. The counsel for the State, the attorney-general, did not see proper to take issue on the plea, because he knew the railroad could prove it; it was a fact; therefore he simply demurred to it, and let the case go off on that. The supreme court of Florida held that that law was unconstitutional, basing its decision upon the provision of the 14th amendment, that it was taking away property without due process of law. Our rates have gradually been reduced from 6 to 5 and to 4 cents, and are now down to 3 cents a mile. They will be reduced still further whenever we feel that we can do it. But if we are compelled to do it as to our interstate commerce by an act of Congress, that will not hold in check the State legislatures, but will rather set them on, because, as I said, they can not answer to their constituents for not reducing intrastate-commerce rates if Congress should reduce interstate commerce rates. Anyway, our condition is bad enough.

Adjourned at 12 o'clock noon.

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Monday, January 28, 1907.

Committee called to order at 10.40 a. m.

STATEMENT OF HON. HILARY A. HERBERT, REPRESENTING THE SEABOARD AIR LINE RAILWAY SYSTEM—Continued.

The CHAIRMAN. You may proceed, Mr. Herbert.

Mr. HERBERT. Mr. Chairman and gentlemen: In my previous discussiono of these bills I attempted to show that it was impossible, considering the difference in these railroads, the difference in the wealth of the country through which they pass and the amount of freight and passengers they carry as well as their situations generally to

make a horizontal rate that will apply to all or a horizontal cut in the maximum rates.

You will remember, Mr. Chairman, the fate of the Morrison bill. There was an attempt to make a horizontal cut in the tariff applicable to all rates. That bill was really laughed out of court. The ground taken by the opponents of the bill was that while the cut operated horizontally on all of the different items of the tariff the effect upon the different industries of the country would be entirely different; that some of the industries would be crippled while others would not be affected. No one has any vested interest in a tariff for a tariff rate, but with railroads it is different. They all have vested interests in their property which is immediately effected, and it is absolutely impossible with any fairness, as I have attempted to show, to make a horizontal rate or any rate at all that will apply equally to all of the roads.

I was asked the question by Mr. Kennedy, I beileve, as to whether or not it would not be fair to make a classification of roads according to the amount of passengers carried and the amount of freight carried. On the spur of the moment I answered that I thought possibly it might be unconstitutional for the committee to consider, in classifying the roads, the freight as well as the tariffs. A little reflection and some examination of the authorities has, however, convinced me that Congress in legislating on questions of taxation, and by a parity of reasoning on questions of railroad rates possibly and probably has the authority to make any classification that is reasonable. But I said on a previous day the question arises, have you the information and have you the time to get the information, that would enable you to enter upon the enactment of a general bill fixing tariff rates by any classification you might agree upon during the few hours that you have devoted and that you can spare from other duties to devote to that question. It does not seem to me that you have.

The question was also asked here—probably of a witness—whether the development of the South had not in all probability been impeded by the high rates charged by the railroad companies heretofore for freight and passengers; and I wish to address myself this morning particularly to that question. And as the system that I represent is essentially a southern system running through the heart of the eastern portion of the Southern States, I wish to call attention to what the railroads have done toward the development of the South within the last forty years, or since the close of that great crisis in our national existence, the civil war.

In order to do that I will endeavor to present to you a picture of the condition of the South at the close of the civil war, and in doing so I do not wish to stir up, or if I know it, to say anything calculated to stir up, the sectional prejudices which are now so happily buried. The time has come—and thank God for it—when ex-Confederate and ex-Union soldiers can meet, as they have often met, in memorializing General Grant, the great soldier of the Union; and when also people who sympathized with the South, and those who sided with the North in that great struggle, can meet, as they did recently all over the South, in celebrating the centenary of the birth of Robert E. Lee, the greatest soldier of the South.

But it is right and fair to the South and to the railroads who are doing business in the South, when you are considering what they

have done and how much they have contributed toward the development of the South, to take into consideration the condition of that portion of our country at the close of that great war.

It is not going too far to say that conditions in the South were about as bad in 1865 and 1866 as they were in Central Europe after the great Thirty Years' War of two centuries and a half ago. Of course our civil war had not been conducted on such brutal lines as was the Thirty Years' War. There were not as many people murdered; the rules of civilized warfare were all observed in the civil war by both sides.

But it remains true, as General Sherman said, and as he illustrated in that war, that all "War is hell," and that the war left the South in a most pitiable plight. There were many cases in portions of that territory that had been overrun by sections of both armies of absolute starvation, well authenticated cases. That starvation sometimes took place among the blacks, but more frequently among the whites in the mountainous regions of the country. The Government of the United States generously did a great deal to prevent this through the Freedman's Bureau; it distributed rations everywhere when they seemed to be needed, preventing many cases of starvation. Nevertheless, the general situation could not be relieved even by the strong arm of the General Government, aided, as it frequently was, by voluntary contributions from Northern people.

I said that the conditions were almost as bad, if not as bad, as they were at the close of the Thirty Years' War in Europe. For one thing, the freeing of the slaves had totally demoralized our labor, changing our labor system. In many places all provisions, all stock, all cattle, had been consumed by the armies, one or the other. Thousands and hundreds of thousands of bales of cotton had been destroyed, some by the Federal army, and much by the Confederate army. And that cotton was the only source we had to look to for money after the close of the war. All the currency in the South was gone.

Bank stock, bank notes, the accumulation, or what ought to have been and would have been the accumulations of those people who did not go into the war, in money for four years, were all swept away, and we had to get money where we could to begin operations again upon our farms and as merchants. Factories, we had none left. There was no place to get money excepting at the North. We did get that money on credit, but we were in a bad plight to borrow money, and therefore capitalists charged high rates of interest.

Mr. Adamson. Character was the only basis.

Mr. Herbert. Yes, excepting the soil that was left us, and the natural resources, too, which were very great. But we got credit here and there, paying high rates of interest for money; and I know it to be true that for several years after the close of the war the farmers and planters got advances, mortgaging their land and crops, at a rate of 4 per cent a month. They generally got their supplies as they needed them, but they were lucky if they could get money at 4 per cent a month on six to eight months' time. That we had to do in order to get along at all.

Now, we have figures to show from the census of the United States what the losses were. The census of 1860 gave the value of all the property in the Southern States at $5,200,000,000. In the meantime,

you will remember that we counted in the census of 1860 the value of the slaves, which, of course, did not enter into the census of 1870.

When this census was taken five years had elapsed after the close of the war, during which we had been trying to rehabilitate our industries. We had made five crops. We had built over 3,000 miles of railroad. The plow stock and other property bought with the money we had borrowed was counted in the census of 1870. And yet the difference between the census of 1860 and 1870, as to the value of property of the South, was $2,200,000,000. That is to say, we had lost 60 per cent of our values in those ten years, estimating the value of our property, even after we had been at work for five years.

Now, gentlemen, think what that means. When we were in this condition just after the close of the war a shrewd Yankee advertised that he would give the secret of making a fortune for 25 cents. Some Southerner, who was anxious to know what that secret was, and who had gotten hold of a quarter, sent it to the advertiser and received this answer: "Work like hell, and don't spend a red." Well, we went to work and we did work like hell, and we did not spend money because we did not have it. But think of the burdens that we had to carry after all these losses.

Mr. Richardson. Can you give us right there the proportionate wealth existing between the States of the South in 1860 and the New England States? My recollection is that the South exceeded in value that of the New England States about $700,000,000, and at the close of the war, in 1870, the value of the wealth of the South had dropped down to about $7,000,000,000, and the wealth of New England had gone up to $12,000,000,000 or $13,000,000,000, exceeding us by about $6,000,000,000 at that time. That is my recollection about the figures, and if that is true it will show in what a depressed condition we were, and how the other sections of the country had advanced.

Mr. Herbert. I have no figures as to New England, but I have here some figures on that general proposition of comparing the increases in the North with the decreases in the South. I will come to that a little further on.

Now, we went to work when the conditions were as I have stated, and I was about to call your attention to the burdens we had to bear. Not only did we borrow this money from the North on which we went to work, at these high rates of interest—and it was natural that high rates should be charged when it was uncertain whether that money would be paid back or not—but nearly every man in the South who had been in good condition before, and who had a desire to take care of his family, feeling that he could make a support while he lived, went into life insurance to provide for his family when he should die.

There never was such an era in our country or any other of life insuring. All the premiums on life insurance went North, and I can not calculate how many millions of dollars it was. And they have been going North, most of them, ever since. We have very few life insurance companies in the South. All the premiums on fire insurance also went to the North.

Mr. Lovering. And abroad?

Mr. Herbert. And abroad.

Mr. Adamson. You did not take that good advice that you got for a quarter, did you?

Mr. HERBERT. Yes; we did. We were working right along all the time.

Mr. ADAMSON. You said the advice was "never to spend a red."

Mr. HERBERT. We had to spend a little; we could not take that advice literally.

Then we had our share of the expenses of this Government to bear, and, as you know, the expenses of the Government are derived principally from internal-revenue and tariff taxation. We paid our share of that. People have to pay upon what they consume, and we had to consume food, clothing—had to have the necessaries of life. Of our pro rata share of the expenses that we paid to the Government, what did we get back? What was expended in the South? Simply post-office expenditures, and Department of Justice expenditures. Beyond that the money that was taken by taxation from our people went naturally to the North.

Mr. ADAMSON. By paying what you did for what you bought you lost from a third to a half that did not go to the Government.

Mr. HERBERT. I am not entering into that question. I think one section has about as much to complain of in regard to that as another. But as to the expenses of the Government, as I say, we paid our share of it, and all the money that was needed to build up the ships of the Navy, to equip the Navy and to feed it, was expended in the North. All the money for the Army, to equip and arm and feed and clothe it, was expended in the North.

Mr. LOVERING. Did not some of the money find its way to the South for supplies—cotton, etc?

Mr. HERBERT. For cotton, yes; nothing else that I know of.

The largest expense we were put to was an expense of which we can not complain. But I am only speaking of the natural causes of the drain of money from us. That was pensions.

A very small proportion of the money that was drawn from us by taxation, and that went to pensions, was expended in the South. For the forty years past, if you take an average of the appropriations for pensions, which runs up from about \$3,000,000 or \$4,000,000 just after the close of the war, to eventually \$160,000,000, and is now away up above \$100,000,000, perhaps you might say that \$60,000,000 a year would be a fair average of the amount of money appropriated for pensions, and of which we paid our share. And if that share could be apportioned, say as one-third, then there was \$20,000,000 a year for forty years, or \$800,000,000. That is the wealth of a great big State even at the present day. That money was drained from us year after year, and expended in every town and village throughout the country everywhere in the North.

Now, carrying these burdens, let me call your attention to what has been really accomplished. I think one of the marvels of the world is the rehabilitation of the South and its present prosperity. My proposition is that this thing could never have happened but for the railroads. It was the railroads working with the people and the people working with the railroads that has enabled us to carry all these burdens and become to-day, perhaps, the most rapidly increasing portion of this country, as prosperous as any other part of it, as I know you all rejoice to feel.

I had some tables here showing the amount of railroad mileage for the whole period. I had them in my office, but, unfortunately, I

did not bring them. But the railroad mileage has increased about 8 or 10 fold within that time. The most rapid increase had been since 1880. Then we began to get on our feet; then we had money to invest in new enterprises, in iron manufacturing, in cotton manufacturing. And let me show you some of the results. Here are the figures compiled by the Manufacturers' Record, of Baltimore, a journal which is devoting itself, and has devoted itself for many years, to southern interests especially, but not exclusively. Here is a table which I find there of the increase in values in the South during the twenty-five years between 1880 and 1905. The capital invested in cotton mills in the South in 1880 was $21,000,000. In 1905 it had gone up to $225,000,000.

Mr. LOVERING. Mr. Herbert, is it not fair to say that a large part of that capital, a great deal of it, was northern capital?

Mr. HERBERT. A good deal of it is northern capital. I am glad to say that we have been able eventually to attract northern capital for investment. You could not send us money on reasonable terms at first because you were liable to lose a great deal of it, and you did lose a great deal of money that was sent down there. There were companies formed to loan money in the South, and a great many of the companies that first entered upon that experiment lost money. We did not get money from the North at first on reasonable terms.

Mr. ADAMSON. Why.

Mr. HERBERT. Because we could not pay these big rates—interest ate up our profits and more besides.

Mr. ADAMSON. Do you mean individual loans?

Mr. HERBERT. I mean individual loans, yes.

Mr. RICHARDSON. Isn't it a fact that Southern men had to show their own faith in their enterprises and develop them before they could secure northern capital?

Mr. HERBERT. That is just what we did.

Mr. ADAMSON. There never has been any danger of loss or failure to collect or realize on investments in any of the Southern States since our people have been permitted to run their States.

Mr. HERBERT. There have been, of course, some losses since that time, but things have been getting better and better all the time.

Mr. RICHARDSON. I do not think anybody blames northern capitalists for not investing down there at that time.

Mr. HERBERT. It was perfectly natural.

Mr. ADAMSON. All of your branch railroads were built mainly by northern capital, were they not?

Mr. HERBERT. Yes; but on that question I would like, first, to say that the railroads we had in the South during the war nearly all had to go into bankruptcy after the war. Very few of them did not.

Mr. ADAMSON. That was before northern capital handled them?

Mr. HERBERT. A good many of their bonds had been purchased by northern and foreign capital, and these capitalists were in control of many of the roads in 1865 and 1866.

Mr. ADAMSON. That voluntary conscription bought up these patchwork pieces of road, made up the system of railways down there, and then they were capitalized.

Mr. HERBERT. I am going into that later.

Mr. ADAMSON. And in that connection I want to say that the present railroads down there are operated by northern capital.

Mr. HERBERT. They are very largely, and we are glad to have been able to attract it. But we were only able to attract the capital after we had shown, not only our faith in our resources, but our ability to develop them.

Take as example the iron interests in the State of Alabama. Mr. Thomas, a Pennsylvania iron man, knowing the vast mineral resources of that country, went down there very early after the war and bought up large tracts of iron and coal lands. We were rejoicing to think that a great ironmaster from Pennsylvania was to develop our iron regions. But he did not do it. He bought the land and let it stay there undeveloped; and we ourselves went to work with such capital as we could get and showed what we could do at Birmingham and in that region. And then it was, I will say to Mr. Lovering, after the Southern people themselves learned how by experiment to make iron, to combine the different ores and how to flux them—in other words, when we had shown to the world that we could make iron at a profit, then it was natural that the people of New England and of Pennsylvania and of the North who were unwilling to invest their capital in iron making in the South when they thought there was a great risk about it, were perfectly willing to help us, because then the future of our iron industry was a certainty. Since that time we have had, and are having now, a great abundance of capital, not only from our own resources, but coming from every section of the North.

Now let me read some more figures. The number of cotton bales that were used in the Southern cotton mills in 1880 were 225,000. In 1905 it was 2,163,000, nearly tenfold greater in twenty-five years.

Mr. CUSHMAN. What do you refer to?

Mr. HERBERT. This refers to cotton bales that were used in the Southern States.

The pig iron that we made in 1880 amounted to 397,000 tons. In 1905 it was 3,100,000 tons.

The railroad mileage had grown in 1880 to be 20,000, but in 1905 it had grown to 60,000 miles.

Farm products had gone from $660,000 value in 1880 to $1,750,000,000 in 1905.

As to petroleum, we made 179,000 barrels in 1880, and our production in 1905 was 42,195,802 barrels.

Mr. ADAMSON. Where is petroleum produced mostly?

Mr. HERBERT. A good deal of it in Alabama, and some, I think, in Texas and elsewhere. I know about that in Alabama in the neighborhood of Demopolis.

Mr. ADAMSON. But in the last few years most of it comes from Texas.

Mr. HERBERT. A great deal from Texas.

I will not read all of these figures, but will ask permission to insert a table in my argument in the Record for the purpose of showing those who may study this question how wonderfully the development has been in that country.

Facts in figures about the South.

	1880.	1890.	1905.
Capital invested in cotton mills	$21,000,000	$60,000,000	$225,000,000
Number of spindles in cotton mills	667,000	1,712,000	9,205,000
Cotton bales used	225,000	546,000	2,163,000
Value of cotton crop	$313,696,000	$390,000,000	$680,000,000
Pig iron made, tons	397,000	2,600,000	3,100,000
Coal mined, tons	6,000,000	21,200,000	70,000,000
Lumber products, value	$39,000,000	$90,700,000	$250,000,000
Capital invested in manufacturing	$257,000,000	$659,000,000	$1,500,000,000
Value of manufactured products	$457,000,000	$917,589,000	$1,750,000,000
Value of exports	$261,000,000	$306,000,000	$555,480,000
Railroad mileage	20,600	42,900	60,000
Farm products, value	$660,000,000	$778,000,000	$1,750,000,000
Property, assessed	$3,051,175,000	$4,510,925,000	$6,500,000,000
Capital invested in cotton-oil mills	$3,800,000	$12,800,000	$54,600,000
Number of cotton-oil mills	45	119	780
Phosphate mined, tons	211,377	510,499	1,874,428
Coke production, tons	897,776	2,535,470	6,244,185
Petroleum, barrels	179,000	498,632	42,495,802

In a few cases in the table above, figures for 1904 are given in the 1905 column, the exact figures for the latter year not being available at the time this is written.

Mr. LOVERING. When you say "the South," what States do you include; where do you draw the line?

Mr. HERBERT. I include, I think, Maryland, West Virginia, Virginia, North Carolina, South Carolina, Florida, Georgia, Mississippi, Arkansas, Kentucky, Louisiana, Texas, and Tennessee.

Mr. LOVERING. Not the Indian Territory?

Mr. HERBERT. Not the Indian Territory.

Mr. LOVERING. But that is a cotton-producing country.

Mr. HERBERT. Yes; but I think that while the Indian Territory may be included as a cotton State, it produces very little. The States I mentioned are included in these figures, and I will put them in precisely as they are. [NOTE.—An examination of the pamphlet read from would indicate that Oklahoma and the Indian Territory are included. H. A. H.]

Mr. BURKE. Are you going to put in a comparative statement of the amount of business done by the railroads between 1880 and 1905; and as to whether the rate decreased between those years and during that period, and in what proportion? The amount of business done?

Mr. HERBERT. I haven't those tables. They have not been furnished here, nor have I the tables; but I have the increased mileage during that time.

Now, these figures give you some idea of what the real development has been. But let us see what the railroads have had to do with that. I will discuss localities I am well acquainted with, those about which I know I am stating the facts. But to first go back a little and touch upon the relations that have existed between the railroads and the people.

There was a time just after the war when all these southern railroads were struggling to keep out of bankruptcy, and when the railroads, as I thought, did not treat the people fairly; did not give fair consideration to their needs. The reasons for the conditions the railroads found themselves in were—their rolling stock had been worn out and burned up, their tracks had been worn out, their bridges had been burned, and they had paid no interest on the bonds during the war; they could not do it. They had worked four years for

Confederate money; were bound to do it; and so, all of them were on the verge of bankruptcy.

At that time I was local attorney for the Mobile and Montgomery Railroad in three counties below Montgomery—between Montgomery and Mobile. Gen. Dan. Tyler, of Connecticut, had been sent down there by the bondholders and the stockholders to be president of the company, to see if he could not, with his great ability, keep the road out of bankruptcy. And he adopted the policy of not paying any debts that he could prevent being paid, putting them all off as long as possible; and not only debts, but all obligations, because the road needed all the money that it could take in and more, too.

So he instructed me as his attorney not to pay any claim against the railroad, but to fight everyone, even the cow cases; to make points and take them up to the Supreme Court, have them reversed—in short, to keep cases in court as long as possible. I followed that policy, and it furnished me a lot of business. But at the same time it incensed the people very much.

Mr. Adamson. They had mighty stubborn juries.

Mr. Herbert. Yes; and these juries gave heavy verdicts when they had the least excuse, sometimes damages double and treble what they ought to give. I got tired of that, and said to him one day: "General, it seems to me that it would be good policy, in order to placate the people and the juries, and also keep from losing so many cases, if you would authorize me to pay up in plain cases and pay up promptly, without any suit." The old general turned to me—I was quite young and he was an old man—and said: "Well, sir, you are attorney for the road, are you not?" "Yes, general," I replied "and I know what that means; it means that I have no right to suggest a policy to you, and I will not do it any more." "You follow instructions," was his reply. I did follow instructions, and for a long time the relations between that road and the people were strained. The juries went for us every time they had an opportunity. But the old general, with his policy, could not keep that road out of bankruptcy.

It went in. Soon afterwards a road was built through the heart of the iron region, called the South and North, running from Decatur, Ala., to Montgomery; and another road, the A. and C., was built. These two roads crossed in a cornfield upon which now is situated the city of Birmingham. Then the Mobile and Montgomery road was amalgamated with the South and North, and with the L. and N., and a new policy was adopted. The managers did everything in their power to ingratiate themselves into the good will of the people by treating them absolutely fairly, appointing claim agents to go around and settle every claim on a fair, even a liberal, basis. New towns began to spring up, and the intersecting roads did everything they could to encourage the production of iron. Birmingham became the magic city. It now has about 100,000 inhabitants. Iron is being produced there at lower rates really than anywhere else I suppose in the United States or in the world. The railroads gave cheap rates to the North and to the East, and we send iron from Birmingham, not only to Philadelphia and to Boston and to St. Louis, but even to Pittsburg; and not only that, when times were dull some years ago, and while we had no market in this country for our products, over 200,000 tons of pig iron were shipped, I suppose at a profit, across the ocean

to Liverpool. Railroad managers have steadily pursued the policy of giving every possible facility to the development of that country. Branch roads have gone out here and there from the trunk lines wherever there was an inviting field, wherever a prospector could convince the railroad authorities that new mines could be opened or new industries developed, so that there is now a perfect network of railroads around Birmingham. Still other railroad systems have sought that great center until now, counting both ends of the railroads that come in, there are at least nine or perhaps eleven entering Birmingham. That development, as I say, began very early. It has continued, and Birmingham is prospering now as rapidly as any other city.

But I have in mind a more recent instance. When I was in Congress, I represented among other counties that of Covington. Without transportation facilities, it was the poorest county in the district excepting one. It had no railroad in it. Twelve years ago the largest town in the county was the county site, Andalusia. It had between 250 and 300 inhabitants. The lands in that county could be bought at from $1.50 to $2 an acre. I was in Alabama recently, and was absolutely astounded at the result that has followed the building of two railroads through that county. Andalusia, instead of having 250 or 300 inhabitants, now has 4,000, and two other towns have sprung up in that county, each of them now having over 3,000 inhabitants. Lands have gone up in price to $10 and $12 an acre. And in that county where banking was before unknown and unthought of there are now six banks. That has all been within less than twelve years, and that development is brought about by railroads. And, gentlemen, there are many other counties in Alabama and all through the South that need to be developed by railroads just as Covington County has been within the last few years.

Mr. Richardson. Isn't it a fact in that connection that Jefferson County, in which Birmingham is located, in 1870 paid the smallest amount of tax of any county in the State, and that it now pays one-sixth of the taxes of Alabama?

Mr. Herbert. Those figures may be correct. Jefferson was certainly a poor county. As I was saying, there are many other counties in the State of Alabama, and in all the Southern States, that need development by railroads, and that will show when railroads are built into them just the same results that I have told you have followed from the building of these roads recently into the county of Covington. Take the railroad system that I represent. It is one of the three competing systems going down South, the Southern Railway, the Seaboard Air Line, and the Atlantic Coast Line. They are all in earnest, not to say fierce, competition. You had evidence here before you that these three railroads are each trying to get northern travel to and from the South, and are running splendidly equipped trains to and from Florida at really a loss.

Mr. Adamson. How much greater is the mileage of your road between here and Atlanta than the Southern Railroad?

Mr. Herbert. I don't know what the difference is, but it would be somewhat greater.

Mr. Adamson. Fifty miles?

Mr. Herbert. Probably so. Nevertheless we have to compete with the Southern for traffic to Atlanta, and we are competing all the time.

Mr. ADAMSON. Do they get to Florida points with as little mileage as the Atlantic Coast Line?

Mr. HERBERT. Some with less and some greater. We run down through Savannah and from Savannah on. There are parts of Florida to which we have the shortest line, and parts to which the Atlantic Coast Line is the shortest.

Mr. ADAMSON. Is your line the shortest line between here and Savannah?

Mr. HERBERT. I am not sure; I could not say about that. But whether it is shorter or longer, these roads are competing for this trade and the development of the South, particularly of the State of Florida.

Mr. ADAMSON. I had in mind the effect upon the longer road. If you put in effect a maximum rate, you would have to meet the rate between those points.

Mr. HERBERT. Yes; and I am glad that you asked that question because it brings to mind this point. Mr. Kennedy asked the other day about the feasibility of fixing graduated rates according to the amount of traffic per mile; and before he came in, I answered that examination had convinced me that the committee would probably have the right to do that, to make such a classification as seemed reasonable, and that any classification that was not reasonable would not be sustained.

But there is this to be remembered, that when you fix rates on one road at a certain grade, say 2 cents a mile on one and 2½ cents a mile on another, if they are competing roads, this scale fixed by law, though differing, brings down the rate on both, and would not help the weak road, if it is competing with stronger roads. Our road is a weak road. Our system is not more than ten years old, and it has been competing for the development of Florida particularly, which, as I said, is one of the poorest States in the South.

Mr. RICHARDSON. Have you noticed that the legislature of Alabama has recently—I believe it has adopted it, certainly the governor has recommended it and one of the houses has passed it—considered reducing the rate to 2½ cents?

Mr. HERBERT. I am coming to that in another portion of my argument.

Now, upon this question as to this particular system that I represent——

Mr. ADAMSON. Is not your system made up of fifteen or twenty smaller roads?

Mr. HERBERT. Yes, sir. Our system is new; it is made up of several different roads, and these roads belonging to our system, since it was formed, have been doing what they can to develop Florida. Tampa has developed wonderfully, and Jacksonville still more wonderfully. But we have encountered many difficulties. These roads are not making money. Our system had a deficit last year, and has never distributed anything to the stockholders excepting 1½ per cent at one time.

All the roads in Florida have been banking very largely upon the future, and one of their hopes was blasted when there came a frost about eight years ago that absolutely destroyed nearly all of the orange orchards in Florida. There were to be, it was supposed, millions and millions of boxes of oranges shipped North. But in a sin-

gle night all of these hopes were blasted, and perhaps not for decades, and possibly never, will that industry reach the point at which it was when the frost came. Some of the roads of which this system is now composed went, at one time or another, into bankruptcy, one of them being the road from Fernandina to Cedar Keys. The agent here, Mr. Coleman, present local agent of the system, told me that he was general freight and passenger agent on that road for eight years after it was built, and that it did not pay operating expenses.

Now, gentlemen, it will not do to say that railroad men with capital must not invest in roads that are not paying. When you lay down that rule you put an end to development. If railroad men are not allowed to bank on the future—not allowed to say that they have expectations that will justify results hereafter—they can not get capital, and you can not develop the country. If such had been the rule for forty years past, who can picture what the South would now be?

Our system now, although it had a deficit last year, has every reason to believe, if it is allowed to go on, and if it is not too much hampered by legislation, it will become a profitable and paying system, profitable to the stockholders as well as the bondholders, and all the time more and more useful to the people of all the States through which it runs. We have recently gotten terminal facilities at Fernandina by action of Congress last year, and there we expect to be met by a line of steamships to go coastwise, and by lines that will carry freight across the water. We are also developing extensive terminal facilities at Tampa, and from that point we expect to carry freight in the future down to South America, and particularly through the Panama Canal when that is completed. If you put burdens on this road that it can not stand, what is to be the result? It must go into bankruptcy. And if it goes into bankruptcy it will fall into the hands of one of its competitors probably. If it does, instead of having three railroads south from here, we will only have two. To that extent you will be contributing to monopoly. And now, gentlemen, suppose this road should come in possession of one of its rivals? Would that present rival have the same plans for the development of the terminal facilities at Fernandina and elsewhere for pushing roads through down South as we are pushing them now below Tampa into the nonfrost region where oranges are never bitten?

Instead of doing that, seeing that this road had never paid heretofore, is it not probable that the new owners would curtail expenses and stop the development of the country. We are developing now because we must develop, we must get more trade, and we can only do it in that way; and this by the exercise of our credit. But strike down our credit by legislation, even make a report favoring hostile legislation, and what is the chance of our getting money to carry out the projects we are considering?

The CHAIRMAN. May I interrupt you here? You have spoken about the active competition between these three roads which you mention. Is there, in fact, any competition between those three roads or any other roads in the United States that develops itself in a lower charge for service, either in carrying freight or passengers; and is it possible to have that kind of competition where tariff sched-

ules by law are made public and can not be changed without, say, thirty days' notice? Is it practicable to have competition under those circumstances?

Mr. HERBERT. It is by the natural laws of competition which have been operating for the past thirty years that passenger rates particularly, and that is what is now before you, have gone down on portions of this road from 6 cents to 5, from 5 cents to 4, and from 4 cents to 3.

The CHAIRMAN. Is that the result of competition between the roads, or is that in response to the general necessities that grow out of a more prosperous condition and a naturally enlarged product?

Mr. HERBERT. Both causes cooperate, and when there is such cooperation there is a natural increase of prosperity which will follow the operation of these roads and their further extension, and thus, if allowed, we will bring about conditions that will enable us to make rates lower.

I spoke the other day of the marvelous fact—just this one fact, Mr. Chairman, which seems to me marvelous—that these roads down in States like Florida, where there is only a population of 37 to the square mile, should have their passenger rates reach an upward limit of 3 cents, when in New England the upward limit is 2 cents where the population and the wealth is twenty times as great.

Mr. KENNEDY. Right in that connection. A 2 cents a mile rate in Ohio seems not to be unreasonable; but are not the people of the South apt to conclude that railroads everywhere can take the same rate. That, of course, is not logical, and it woud not be fair. But would not legislation by the National Government, clearly recognizing the fact that your railroad should not carry at the same rate as roads that are making $30,000 per mile, prevent local legislation in the States, and would it not have a tendency to bring to their attention the difference between the railroads of the South and those in the thickly settled States.

Mr. HERBERT. I am bound to say in answer to that question that any bill proposed or any report made by this committee that would point out clearly and distinctly to the people of the Southern States, the States through which these roads run, the all-important fact that all railroads ought not to be treated to the same medicine, might or logically ought to have a good effect.

Mr. ADAMSON. In the thinly populated sections, where you can not run such fine trains, had they not better take a few plushes out of the upholstery, and take a little off of increased charge?

Mr. HERBERT. It would be rather an impracticable thing; a rather invidious thing.

Mr. ADAMSON. Through all the regions of the South you do not have to run that kind of trains, the same kind that they demand on the Lake Shore and the Erie, do they?

Mr. HERBERT. But wherever there is a through train, from one point to another, it would be an impracticable thing to stop and exchange cars.

Mr. ADAMSON. But you might carry them on different trains if necessary.

Mr. HERBERT. It would cost more than it would come to; it would be impracticable to put on another train—make transfers.

Mr. ADAMSON. That is the thing that makes so many mad jurors that you were speaking of, the allowing of a few fellows in Boston and Philadelphia to dictate the character of the schedules throughout the South to the detriment of the local people. I do not mean your road. The chief complaint about your road that I have heard in my country is that it does not go to all the points that they want it to go to.

Mr. HERBERT. But how will it ever get to those points if its credit is stricken down. There are many points in your State that ought to be developed, and there are many counties in Georgia that would grow up and prosper like the county of Covington has in the State of Alabama. But how are they to be reached by the Seaboard Air Line Railway with new branches if there is legislation that discourages capital. I think that question enables me to illustrate, as pointedly as it is possible, the iniquity that would be practiced upon this undeveloped region in the South by any legislation that would strike down the credit of these railroads and prevent their development of the South. All over the South we have an abundant rainfall; nearly all the land down there in all the States is capable of being made to blossom like the rose if they only have transportation. We did not have transportation once from Jefferson County. Where Birmingham is we had no town, and that county paid, Mr. Richardson says, the lowest taxes in the State. It is now the center of a great and thriving industry, and there are many other counties that are capable of being developed, and if railroads are permitted to do it, will be developed. But if there is hostile legislation by the Federal Government and by the States, this development can not be expected.

My plea is that now is not the time to cut the rates, and that it is impossible to do it with justice to the country; certainly it is impossible to do it with justice to that portion of the country through which this road I represent runs, and which this road is trying to develop.

Now, let us think for a moment about this particular period chosen for this legislation, chosen for the introduction of bills reducing rates, either by a horizontal reduction, or by any reduction at all. We have the testimony of Mr. Ryan that the labor expense recently on this road, had gone up $200,000. Labor has been increasing its demands continually, and those demands must be answered. Not only must they be answered, but we must look to the future. Quite recently there was a conference in this city of railroad laborers asking for higher rates and shorter hours. That is the situation right now. These demands of labor, coupled with the expensiveness of materials—everything, ties, iron, everything that costs in the equipment of a railroad, is higher—and the expense of living is higher 20 to 25 per cent higher, for the railroads as well as for people. Your expenses are higher, and you have recognized the fact, justly and fairly, I think, by increasing the salaries of Members of the House and of the Senate. The country is going to approve of that I hope, universally. The evidence so far as I see here is that the country will approve it. That is what I gather from the papers in my State. And, gentlemen, just at this time when these expenses are increasing—and not only that, when the prosperity brought about by these roads has resulted in the production of so much freight that it is impossible with present facilities to handle it, and there is needed for the roads that are already

built more equipment, more terminal facilities, more sidetracks—really more tracks if they are to handle this freight to their advantage and to the advantage of the people. There should be no reductions. And all of these roads—none of them I believe—have any funds laid aside. They must resort to credit.

Mr. STEVENS. Where did you get funds to make the extension to Fernandina and Tampa and such places that you spoke of?

Mr. HERBERT. We have had to rely upon our credit. I do not know the particulars, but it is the same whether we have got to get money on credit or——

Mr. STEVENS. You would go to the money market?

Mr. HERBERT. Yes; to get it when our income is not sufficient.

Mr. STEVENS. Did you make these extensions out of your income?

Mr. HERBERT. I don't know exactly how they have been made, but I do know that there now is a deficit.

Mr. STEVENS. That is why I wanted to know. If you made extensions out of your income, and there was a deficit, that would not be an argument against this bill.

Mr. HERBERT. I think they have been made largely on credit—still I am not prepared to answer.

Mr. ADAMSON. Your system is not complete; you are all the time building?

Mr. HERBERT. All the time building and extending.

Mr. STEVENS. It is interesting for us to know in this particular, if you are making these extensions, where you get the money.

Mr. HERBERT. I will make a note of that, and I will ask permission to add to my remarks in these particulars. Within the limited time I have had for corrections, etc., I can only add in a general way that some of our extensions and improvements have been made from the profits of the paying portions of our system and some on credit money.

Now, gentlemen, just look at the present situation. Consider for a moment both freight rates and passenger rates; why should you reduce passenger rates instead of freight rates? Have you information enough to enable you to say that in the interest of the country and in the interest of the railroads, which are part of the country and are helping in its development, the first reduction ought to be on passenger rates? Take these people in the different States of Alabama, Georgia, and Mississippi, and other Southern States through which the railroads run. How many of them—that is, the farmers, the workers, the backbone and sinew of the country—travel by rail through other States? Of course, men on the borders may go across the line and sell chickens, but that is not material. There are very few of the people who are really affected by these rates, but they do need cheap freight rates.

They can not live unless they can send their products abroad, and unless they can get back products in exchange for them on reasonable terms. And this committee has not the time to get the information; it certainly has not the information now before it—at least it has not been developed here—that would justify you in coming even to the conclusion that passenger rates are the first things to be touched.

Mr. STEVENS. What do you maintain is the first requisite a railroad company should furnish the people—rates, or facilities, or safety, or what?

Mr. HERBERT. Safety first.

Mr. STEVENS. Then what?

Mr. HERBERT. Next to safety, it ought to furnish freight rates, I think, more cheaply than passenger rates, because they are more important.

Mr. STEVENS. And facilities after that?

Mr. HERBERT. Facilities for cheapening passenger and freight rates.

Mr. STEVENS. Don't you think that the people want facilities ahead of rates?

Mr. HERBERT. Their true interest is in having rates that will enable them to live and prosper.

Mr. ADAMSON. They could not judge the rates by the facilities?

Mr. HERBERT. No.

Now, gentlemen, every interest down South is prospering except the railways.

Mr. ADAMSON. The biggest troudle I see down South is where they give one town one rate, and another town a different rate. I don't think our people generally would kick if the rates were fair to all.

Mr. HERBERT. That is exactly the point I am getting to.

Mr. RICHARDSON. Before you start on that, I would like to have you explain to me or the committee this trouble that you have in Alabama. First and foremost is a general belief that the roads which pass through Georgia and come into Alabama charge much less freight in Georgia than they do in Alabama, across the line. Then is it not a fact—or have you examined it—that the roads that penetrate Alabama, when they render their assessments to the board provided by the laws of Alabama to whom they have to account, put their roads in at a value per mile of about $7,000; and then when they come to make an account wherein their profits are involved, they estimate the same road per mile as worth not less than $50,000 a mile? That is, when they put their property in to be assessed and pay their part of the taxes, they make an estimate of the worth of the road on an average of $7,000 a mile; and when they come in to be assessed for their profit, for their realization on the profits, they quadruple it. Have you examined that?

Mr. HERBERT. I am going to speak of that in a moment.

Mr. RICHARDSON. I wish you would.

Mr. HERBERT. But if Mr. Richardson and Mr. Adamson will allow me for a moment to pass by that, I want to make this one point. Every single interest in Alabama now—agricultural, mining, manufacturing, farming—all are prospering excepting the railroads, which are paying no dividends. Suppose a widow ten years ago, or five years ago, had an insurance policy left her by a husband, on which she was to live, of about $10,000. That would be a very good sum for the average throughout the country. If she had invested it judiciously in agriculture, mining, manufacturing, iron, or cotton, she would have gotten in profits from 8 to 10 per cent, and maybe more, and she would have received to live on something like a thousand or twelve hundred dollars perhaps. Suppose she had invested it in one of these railroads, hoping for development, she would have gotten nothing.

Mr. STEVENS. You do not contend that that is the fault of the Government. Isn't that the fault of the railroad owners themselves—the manipulators of the stock market?

Mr. HERBERT. I think not; it is the condition of things. And I am endeavoring to show that under present conditions, this is one of the interests that is not prospering. All of the other interests are prospering. Certainly, this is not the time to cripple railroads.

Now, to come to the question that was asked me, and they both relate to the same point, the discriminations—freight discriminations. There is complaint, and I am not here to deny that there can be found grounds of complaint about discriminations here and there in freight rates. These discriminations are brought about by the fact that these great systems are struggling, not only against each other, but they are struggling for rates that will enable them to live and pay interest on the money. Now and then, I do not doubt that in favor of points where there is competition, they make discriminations against this place or that place. What is the best way to remedy any discrimination if it be unfair? I believe that that is the only ground of complaint that the people of to-day really think they have against the railroads. Suppose we say it is well founded, who is to afford the remedy? You are not; or, at least there is no bill of that kind here before you, and you have not the time, as I have often said, to get the information that would enable you to do it; and you haven't got the expert knowledge. There is a body, however—the Interstate Commerce Commission—that has that power, and, under the Hepburn bill, which originated in this committee at the last session, the Interstate Commerce Commission has power to look into and remedy these precise things. If that is the ground of complaint, and a well-founded ground of complaint, it is one that Congress recognized when it passed the Hepburn bill and gave the machinery to the Commissioners to enable them to accomplish that result—the prevention of unfair discrimination.

The CHAIRMAN. The hour has arrived for adjournment. This matter will go over until next Friday.

Adjourned at 12 o'clock noon.

CONCLUSION OF REMARKS OF MR. HILARY A. HERBERT.

Mr. CHAIRMAN AND GENTLEMEN: When my remarks were interrupted by the hour of adjournment on Tuesday last, I was saying that the most reasonable ground of complaint, and what I believe has caused more discontent than anything else, is the fact that towns and other localities which do not enjoy the benefits of competing systems of transportation often fail to get freight rates as low as are given to points where there is actual competition. The law has for twenty years recognized that competition gives natural advantages to localities and that this advantage is not to be taken away by law, but if at any point it happens that injustice is done, that is a matter over which the Interstate Commerce Commission has full jurisdiction. The Commission is competent to deal with that question, and there you propose to leave it, I suppose, because no bill on that subject is now before you.

For the reduction of passenger rates there does not seem to be any widespread demand. No one has appeared here to advocate this bill. But if there is a demand for lower passenger rates you have given the Interstate Commerce Commission power to deal with that also. The act in which you did this was, at the last session of

Congress, the subject of the greatest debate that has taken place in this Capitol for many years. You thought, gentlemen, when you passed that bill (which originated in this committee and to which the honored name of your chairman has been given) that it would give relief. This was the consensus of opinion of the two Houses. That bill went into operation only at the beginning of this month. Why not give it an opportunity? Why discredit that Commission now by saying in advance that you do not believe it will do what you empowered it to do? What do you think will be the effect upon public opinion throughout the country if you say now, by passing a law that will divest the Commission of so important a part of the jurisdiction you so recently gave it, that you have no faith in it? Why, gentlemen, even a favorable report on this bill or any of these bills would be taken by the public—by the Commission—as indication that in the opinion of this course this is a matter that the Commission is not to deal with and Congress is.

And now, gentlemen, in conclusion let me say that my remarks have been confined largely to the railroad system I represent and to the section of the country in which that system operates, because what is true there is true elsewhere.

It seems to me to have been established before you by the evidence and by the authorities cited—

That you can not, without violating the Constitution, enact that railroads shall issue to those able to pay for them thousand-mile tickets at rates lower than the rates charged to others.

That you can not compel one railroad to redeem tickets issued by other roads.

That if you should abandon the idea of thousand-mile tickets, and fix uniform straight rates for all the roads, it would be unfair, unreasonable, and unjust.

That you have neither the information nor the time within which to get the information that would enable you to fix passenger rates for all the roads in the United States.

That any attempt to classify roads, either by dividing them off into zones or by graduating rates by gross incomes, would also be unfair, impracticable, and unjust.

And to speak again of the system I represent. The evidence has shown that the prosperity of the territory in which it operates, and of the whole South, during the last forty years, and particularly within the last twenty-five years, has, considering the burdens carried by that section of the country, been simply marvelous, and this prosperity has been the direct result of cooperation between the railroads and the people.

Again, the Seaboard Air Line is one of three systems of railroads which are all engaged in honest and earnest competition. It is a new system, composed of several roads, some of which have been subject to many vicissitudes—this chiefly because of the sparseness of population.

If the development of the region through which this system goes is to continue, the system must be encouraged and not discouraged.

This hearing has been going on for nearly four weeks. There is no evidence here of a crusade. Not a witness has appeared in favor of any of these bills, and every member of the committee has shown a disposition to consider this question fairly. But there are evidences

elsewhere of hostility that are alarming. Although our sytem has not yet been able to pay a cent of dividend on its common stock and never but 1½ per cent at one time on its preferred stock, the Florida railroad commission some two years ago ordered two reductions on freights, both of which were submitted to without question. Two other orders by the same commission, still further reducing freights, were appealed from because the road believed them unjust, but the decisions were affirmed. And you must never cease to bear in mind, gentlemen, that courts are not rate-fixing bodies. That the Supreme Court of the United States has repeatedly decided that it has no power to afford any relief, except when disciminations are attempted which amount to the taking of property without due process of law, or when rates are fixed so low as to amount to confiscation. When it reaches that conclusion it can only declare a law void. It can not fix reasonable rates. But the reasoning in Smythe *v.* Ames tends to show that if the Nebraska legislature had left the railroads the power to earn even 1 per cent on their capital the court would have refused to interfere. Such a low rate would evidently have been unjust and unfair, but from the opinion of the court it would have been upheld, because not unjust and not unfair to the extent of absolute confiscation.

At this very moment bills are about to pass, if they have not already passed, reducing freight rates and passenger rates in Alabama. So in Georgia. Legislation is also to be urged against rates in Virginia and in North Carolina, and all this just at a time when all the expenses of operation and of betterment are rapidly increasing. If this crusade goes on capital will take fright and refuse advances not only for extensions and improvements, but even for necessary repairs and equipment. When a panic once begins it will affect not only the rich, but the hundreds and thousands of widows and orphans and other people in moderate circumstances who have their investments in railroad securities.

What relief will there be except in Government ownership? That idea is making headway already. Not only are avowed socialists advocating it, but many others, who do not claim to be socialists, are contending that the Government must own the railroads. If no other remedy is in sight, if the lawmakers, State and Federal, will not allow the owners of railroad property fair returns upon their investments, what is to prevent them from striking a bargain with the socialists? The socialists, if they can thereby get into power, will, you may be sure, stand ready for a trade. They will agree beforehand that the Government, when they get control, shall pay fair prices and when this bargain is made, when the railroad interests are driven into the wide-open arms of the socialists, what is to prevent the triumph of Government ownership?

This is a question the country ought to take note of, and it is one, gentlemen, for you to consider: Shall the railroad interests be driven by hostile legislation into the advocacy of Government ownership?

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
HOUSE OF REPRESENTATIVES,
Washington, D. C., Friday, February 1, 1907.

STATEMENT OF MR. LEWIS E. PAYSON—Concluded.

Mr. PAYSON. Mr. Chairman and gentlemen of the committee, as I was saying at the previous hearing, where the people in the States have taken up this question and have fixed maximum rates, these were the figures, and I had gotten down to the State of California in my presentation, stating then that the maximum rates by law ran from 3 to 10 cents a mile. As I said, these rates are fixed by a commission, and the operations under that commission are entirely satisfactory to the people of the State of California.

I read from the report of the annual convention of railroad commissioners, held in this city in April, 1902, from page 105:

Mr. BECKMAN. Mr. Chairman, I would state that we are a good deal in the same fix in our State. We have some 30 roads. For some of the roads we establish a rate for passengers of 2½ cents per mile, and for others a rate of 10 cents per mile. If we did not allow 10 cents per mile the claim would be made that the passenger business was too light for a lower rating. We make a rate for almost every road. Where there is a great deal of travel we make a less rate; but where the travel is light, and amounts to only a trifle, we make a high rate. On one road they keep up 40 miles of snowshed. and we have to take all such things into consideration; therefore the statistics would be of very little use to us.

I may say, in this connection, that there are 17 States in the Union where the fixing of maximum rates is confided by law to railroad commissions; and in all those States, so far as I have been able to ascertain, the action of the commissions has been perfectly satisfactory to the people.

I read again, from page 103 of this report, a statement made by Mr. Wheeler, of Illinois, showing the satisfaction to the people of his State with the action of the commission:

Mr. WHEELER. I, in part, represent a State whose commission has the rate-making power, and we disregard in making our rates the approximate passenger and freight expenses. We pay no attention to them, but we classify our roads according to the net earnings per mile. That includes both passenger and freight, and we base the rates upon those net earnings.

And I will say further, that I do not believe there is a State in the Union where there is less friction between the people and the railroads than in the State of Illinois. They are satisfied on both sides. The people seem to be satisfied with the rates, and the roads seem to be satisfied with the rates; at least, they accept the rates—the maximum rates—as published by the commission, and in many instances make rates lower than those authorized by the commission. We do not prescribe minimum rates. We simply fix maximum rates, and the people are satisfied with the action of the various roads in following the rates as established by the commission, or in making lower rates than the commission authorizes. I repeat that I do not believe there is a State in the Union where there is less friction between the people and the railroads than in the State of Illinois.

The rates fixed by the Illinois commission I have already submitted to the committee. In Iowa the statutory maximum rate is 3½ cents a mile. A few years ago it was proposed to classify the different roads in the State, so that for Class A a maximum of 2 cents a mile, for Class B a maximum of 2½ cents a mile, and for Class C a maximum rate of 3 cents a mile was proposed, but this action failed.

In Kansas the maximum rate is 3 cents per mile. In Louisiana, by the action of the railroad commission, the maximum rate is from 3 cents per mile to 6 cents per mile. In Maryland, by statute, the maximum rate is 3 cents per mile. In Massachusetts the maximum is 3 cents per mile.

In Michigan the roads are graded so that in the lower peninsula a maximum of 2 cents and 3 cents per mile is permitted, and in the upper peninsula 2 cents and 4 cents. In Minnesota, by railroad commission, the rate is 3 cents per mile. In Missouri upon different lines the maximum rates are 3 cents and 4 cents per mile. In Nebraska, by State railroad commission, the maximum rate is 3 cents per mile.

In Nevada, by State law, a maximum not exceeding 10 cents per mile is allowed. In New Jersey, by State law, the maximum rate is 3 cents per mile. In New York, by statute, the maximum rate is 3 cents per mile, except that upon traffic between places intermediate between Albany and Buffalo the maximum rate is fixed at 2 cents per mile, and this is explained because along that portion of the New York Central Railroad line runs the Erie Canal, a State institution, so that the railroad competing with the canal is restricted in its charges to 2 cents per mile, as I stated.

In North Carolina the rate fixed by the railroad commission is 3¼ cents per mile. In Ohio, by State law, the maximum rate is 2 cents per mile. In Oregon, by State law, the maximum rate is 4 cents per mile. In Tennessee, by State law, the maximum rate is 4 cents per mile. In Texas, by railroad commission, the maximum rate is 3 cents per mile. In West Virginia, by State law, 3 cents to 5 cents may be charged. In Wisconsin, by statute, the maximum rate is 3 cents.

At this point I insert, Mr. Chairman, the local passenger rates of the different lines of road involved in the Union Pacific and Southern Pacific systems, as follows:

Rates per mile of local passenger fares, January 1, 1907.

	Basis per mile.
Union Pacific Railroad:	
Main and branch lines in Kansas, Nebraska, Colorado, Wyoming, and Utah	$0.03
Except Park City and Superior branches	.05
Oregon Short Line Railroad:	
Main line, Granger to Huntington and Salt Lake City to Butte, also Boise branch and Cache Valley branch	.03
Cumberland branch, Twin Falls branch, Malad branch, and Marysville branch	.04
Ketchum branch and Mackay branch	.05
Oregon Railroad and Navigation Company:	
Main line and branches	.03
Except Shaniko branch and Condon branch	.04
Southern Pacific Company (Pacific system): (In California tickets limited to six months, good for bearer and good to stop over at any point, are sold at rates which have been approved by the California Railroad Commission. This is in accordance with the constitution of California. We, however, also sell continuous-trip tickets at lower rates made by the railroad voluntarily. In other States and Territories continuous-trip tickets are sold. The general basis for continuous-trip rates is as follows, there being of course exceptions by lower through rates between certain points):	
Ogden, Utah, to Auburn, Cal., main line	.04
Branches	.05
Nevada and California Railroad	.05
California main lines	.03
California branch lines not to exceed	.05

	Basis per mile.
Southern Pacific Company—Continued:	
Oregon lines	$0.03
El Paso, Tex., to Banning, Cal., main line	.04
Branches not to exceed	.05
Texas lines: In accordance with Texas laws not to exceed	.03
Louisiana lines:	
Main line	.03
Thibodaux branch, Houma branch, New Iberia-Abbeville branch, Alexandria branch, Eunice branch	.03
Cypremont branch, St. Martinsville branch	.04
Lake Arthur branch	.05
Lockport branch	.06

The courts have uniformly sustained rates largely in excess of 2 cents a mile as reasonable. In Ames *v.* The Union Pacific Railroad Company (64 Fed. Rep.), cited before, a difference of over 40 per cent in rates in Nebraska over similar service in Iowa was sustained by the Supreme Court of the United States as not unreasonable. Before the Interstate Commerce Commission, in the Charleston and Southern Railroad case, a rate of practically 4 cents a mile was held to be reasonable, taking into consideration the cost of the road, the density of population, the density of traffic, and the lack of local traffic.

I will read section 514 of Beale & Wyman's Railroad Rate Regulation.

514. *Cost of srvice a principle applicable to passenger fares.*—Cost of service is plainly a principle in rate making to be applied to passenger fares as well as to freight rates. It can not be more scientifically done in one case than in the other, but it is always a matter to be inquired into. Various considerations affecting the cost of passenger service are suggested in the extract from an opinion by the Interstate Commerce Commission, which follows, which held not invalid a fare of 3.826 cents per mile between Savannah and Charleston: "This railway between Savannah and Charleston runs mostly through swamp lands and crosses a number of rivers. From Savannah it runs parallel with the Savannah River, crossing it to the South Carolina side; the other streams crossed are the Coosawhatchie, the Salkehatchie, the Ashepo, and the Edisto. Five or more drawbridges are operated.

The road had 8 miles of trestling, but by filling in the trestle mileage has been reduced to 4. On account of the swamps and rivers the construction of the road involved more than ordinary cost, and unusual expense is required to maintain it in a good state of repair. The section traversed by the line is unhealthy, much of it is uninhabitable, and the population is made up almost entirely of colored persons. They have little patches of land, and some are employed in rice cultivation. Up to about three years ago phosphate mines in that region were worked extensively, but that industry has been abandoned to a considerable extent, because, it is suggested, of the discovery of phosphate rock in Tennessee, Florida, and other localities. There is one fertilizer factory located on the line about 35 or 40 miles south of Charleston. There are no places of importance between the termini of this road, and the counties in South Carolina penetrated by the line (not including Charleston County) number 28 persons to the square mile, as against 34½ to the square mile throughout the whole State. After leaving Chatham County, which includes Savannah, the road passes through Effingham County, Ga., which has about 13 persons to the square mile.

I will also read from section 522 of Beale & Wyman on Railroad Rate Regulation, the case of Cist *v.* The Michigan Central Railway (10 I. C. C. Reports, 217), emphasizing one paragraph of the opinion of the Commission where it stated: "There is hardly any section of the country in which a rate as high as 3 cents per mile is not charged for a local service of this distance."

522. *Principles of usual rates peculiarly applicable to passenger fares.*—The principle of permitting the railroads under ordinary circumstances to

charge usual rates of fare is particularly useful in dealing with the validity of passenger fares. There are certain standards of what will constitute a not unreasonable charge per mile for a passenger in most communities which it can hardly be shown to be unreasonable to maintain. Thus in one proceeding the Interstate Commerce Commission said: "We can not find upon this record that $1.10 is an unreasonable charge from Niagara-on-the-Lake to Buffalo.

This is a branch line of the defendant, and the case does not show density of traffic nor the circumstances under which the passenger service is performed. It simply appears that a rate of 3 cents per mile is imposed. While lower rates are in force in many parts of the United States, it is also true that there is hardly any section of the country in which a rate as high as 3 cents per mile is not charged for a local service of this distance. The fact that a rate of 85 cents is made during the summer season to meet competition via Lewiston is not controlling, nor is the further fact that the New York Central, under compulsion of law, establishes a rate of 2 cents per mile from Lewiston to Buffalo.

In closing this point in this discussion I call attention to the fact that not a case of complaint against existing rates of passenger traffic has been sustained by the Interstate Commerce Commission or the courts, and that in no case in the entire Union, except in the State of Ohio, have the people fixed as low a rate as 2 cents per mile.

The rate-making power should always consider the cost of service for different parts of the same system. I cite in support of this proposition Beale & Wyman, sections 457, 458, and 510. As the cost of service on different lines of road or different systems of roads vary largely, there must necessarily be a difference in rates.

I read in this connection section 509 of Beale & Wyman:

509. *Cost of service for different railroad systems.*—It must be obvious from all that has been said that cost of service is a relative matter, different for different railroad systems. Upon some systems there will be grades, upon others none. Some are great systems with all the economies of large businesses, while others may conduct small systems through sparsely settled territory. To quote a specific instance from an opinion of the Interstate Commerce Commission: "Tested by these rules, a rate may be a very reasonable and just rate on one railroad and not reasonable and just on another. For example, a rate that would be reasonable and just on the New York Central and Hudson River Railroad may be so low that it would force the Minneapolis and St. Louis Railway into bankruptcy in less than thirty days; and a rate that might be reasonable and just on the Minneapolis and St. Louis Railway might be so high that if attempted to be enforced on the New York Central and Hudson River Railroad for thirty days it would practically destroy the business of the latter. This diversity is most observable in the different portions of the country—as, for instance, between lines of railroad in the Southern States, or the States of the far West, on the one hand, and the railroad lines of the Middle and Eastern States on the other.

I also read from pages 26, 27, and 28 of the report of the annual convention of railroad commissioners, referred to above:

We have little share, anyway, in the expectation that just railway rates will ever be established through statistical tables showing "per mile," "per ton," or "per passenger" costs. We do not believe that information of this kind ever did furnish the basis for actually fixing tariff rates, or that it ever will, because we believe that, even where railway commissions are clothed with power to fix rates, such rates will be made up upon a different basis and depend upon different conditions from any disclosed by such statistics. Particularly must this be true so long as the cost items per unit of traffic are confessedly erroneous and do not represent the true facts of the case.

So far, therefore, from the statistics obtained from this division being valuable as affording a criterion for railway rates, we believe that the very fact that this false information is liable to be so used is the most cogent reason which could be given for ceasing to furnish a basis confessedly erroneous. A man who travels in the wrong direction is certainly as likely never to arrive at his destination as one who travels not at all.

By all this we do not mean to be understood as saying that unless absolutely correct and accurate information is obtained the attempt to classify expenses should be abandoned. We do, however, mean to say that unless a result which is substantially and approximately correct can be had, it is better to leave the subject untouched, and to permit (if a cost criterion must be had) the statistics of each road to be estimated separately and in the light of its own conditions of traffic, and to be so estimated by those who may have the rate-making power.

In the somewhat lengthy investigation we have made in this matter one fact has arisen to a position of absolute clearness in our mind, which is that no universal or uniform basis of such division of expenses will ever yield statistical results near enough correct to be of practical use, or, indeed, not to be positively harmful.

When we consider that the proposed division of expenses must be made on, say, some coal road of Southern Illinois which hauls an occasional passenger, by the same rule and upon the same basis which is applied to a passenger road connecting New York and Philadelphia or Philadelphia and Washington, what possible value can be expected in results so obtained?

If it were possible in the case of a single road to arrive at a correct rule for apportionment of operating expenses, it would remain doubtful whether the rule thus found would be applicable to any other road doing business in the country, and certainly it could never be applied to any considerable number of other roads.

It follows, then, that uniform mileage rates applied to different roads are necessarily unjust to the poorer roads.

Again, a uniform rate over the entire Union is unjustifiable for another reason. It would sacrifice the longer lines to the shorter from all common points. There are in every part of the country points which are common for traveling over the different lines to a common terminal. Now, rates to such points are made substantially the same by the different railroads, giving the traveler his choice of route. For instance, from Washington to San Francisco via New Orleans the distance is 3,623 miles. The regular rate is $77, which is 2.13 cents per mile. From Washington to San Francisco by way of Chicago the distance is 3,188 miles. Under this bill the short-route fare would be $63.76. To meet this the Southern Pacific, being the longer route, would be compelled to adopt the $63.76 rate, which would give it only 1¾ cents per mile, making a 12½ per cent loss on present rates.

Again, from Omaha to Los Angeles the short line is 1,786 miles. Under this bill, at 2 cents per mile, the rate would be $35.72 from Omaha to Los Angeles. By way of Ogden the line would be 2,141 miles; and this for the same rate, $35.72, would give the Union Pacific road only 1.6 cents per mile.

From Denver to Ogden the short line is the Union Pacific, 600 miles. Under this bill, at 2 cents per mile, the rate would be $12. From Denver to Ogden the line by way of the Denver and Rio Grande is about 700 miles, and the same rate of $12 for the trip would give the Denver and Rio Grande Railroad Company only 1.7 cents per mile.

As showing the effect of the proposed 2-cent rate upon the present local rates of the Union and Southern Pacific systems, I insert the following tables:

	Rate, etc.	Remarks.
Between Omaha and Denver, Colo.:		
Present rate	$16.15	Basis, 3 cents per mile, 538 miles, Burlington distance.
Union Pacific distance .... miles	569	
Rate per mile	$0.0283	
Mileage rate at present	$13.45	Basis, 2.5 cents per mile, 538 miles.
Proposed rate	$10.76	Basis, 2 cents per mile, 538 miles.
Rate per mile for Union Pacific	$0.0187	
Between Omaha and Ogden, Utah:		
Present rate	$30.00	Basis, 3 cents per mile, 1,000 miles.
Union Pacific distance .... miles	1,000	
Rate per mile	$0.03	
Proposed rate	$20.00	Basis, 2 cents per mile, 1,000 miles.
Mileage rate at present	$25.00	Basis, 2.5 cents per mile, 1,000 miles.
Between Omaha and Salt Lake City, Utah:		
Present rate	$30.00	Basis, same as Ogden.
Distance, Union Pacific, Oregon Short Line .... miles	1,037	
Rate per mile	$0.0289	
Proposed rate	$20.00	
Rate per mile, Union Pacific, Oregon Short Line	$0.0192	
Between Kansas City and Denver, Colo.:		
Present rate	$16.15	Basis, same as Omaha.
Union Pacific distance .... miles	640	
Rate per mile	$0.0252	
Mileage rate	$15.575	Basis, coupons for 623 miles detached, at [illegible] cents.
Proposed rate	$10.76	Basis, same as Omaha. Two cents per mile would be $12.80, but the necessity for maintaining parity among Missouri River points and Colorado common points would require adoption of Omaha-Denver rate.
Union Pacific distance .... miles	640	
Rate per mile	$0.0168	
Between Kansas City and Ogden, Utah:		
Present rate	$30.00	Basis, same as Omaha.
Union Pacific distance .... miles	1,230	
Rate per mile	$0.0243	
Proposed rate	$20.00	Basis, same as Omaha. Two cents per mile would make $24.60, but necessity for maintaining parity between Missouri River points and Utah common points would require adoption Omaha rate.
Union Pacific distance .... miles	1,230	
Rate per mile	$0.0162	
Between Kansas City and Salt Lake City, Utah:		
Present rate	$30.00	Basis, same as Omaha-Ogden.
Distance Union Pacific, Oregon Short Line .... miles	1,267	
Rate per mile	$0.0237	
Proposed rate	$20.00	Basis, same as Ogden.
Distance Union Pacific, Oregon Short Line .... miles	1,267	
Rate per mile	$0.0157	
Between San Francisco and Ogden, Utah:		
Present rate	$30.00	Basis, 4 cents per mile east of Auburn, Cal., and 3 cents per mile west thereof.
Distance, short line via Benicia, miles	786	
Rate per mile	$0.0381	
Distance, via Stockton-Martinez, miles	847.42	
Rate per mile	$0.0354	
Distance, via Stockton-Niles . miles	835.9	
Rate per mile	$0.0358	
Scrip book net rate on $90 book	$19.65	Basis, 2.5 cents per mile, 786 miles.
Rate per mile—		
Short Line	$0.025	
Stockton-Martinez	$0.0232	
Stockton-Niles	$0.0235	
Proposed rate	$15.72	Do.
Rate per mile—		
Short Line	$0.02	
Stockton-Martinez	$0.0185	
Stockton-Niles	$0.0188	
Between San Francisco and Portland, Oreg.:		
Present rate, first-class	$20.00	Basis, old graded rate.
Distance via Davis .... miles	746.19	
Rate per mile	$0.0268	
Distance via Roseville .... miles	771.97	
Rate per mile	$0.0259	
Scrip book, net rate on $90 book	$18.67	Basis, 2.5 cents per mile, 747 miles.
Rate per mile via Davis	$0.025	
Rate per mile via Roseville	$0.0241	

	Rate, etc.	Remarks.
Between San Francisco and Portland, Oreg.—Continued.		
Proposed rate	$14.94	Basis, 2 cents per mile, 747 miles.
Rate per mile via Davis	$0.02	
Rate per mile via Roseville	$0.0193	
Between San Francisco and El Paso, Tex.:		
Present rate	$40.00	Basis, old graded rate.
Distance via Coast Line ......miles..	1,290	
Rate per mile	$0.0031	
Distance via Fresno-Lathrop.miles..	1,297.6	
Rate per mile	$0.0308	
Distance via Fresno-Mendota.miles..	1,300.3	
Rate per mile	$0.0307	
Scrip book, net rate	$32.25	Basis, 2.5 cents per mile, 1,290 miles.
Rate per mile, Coast Line	$0.025	
Fresno-Lathrop	$0.0248	
Fresno-Mendota	$0.0248	
Proposed rate	$25.80	Basis, 2 cents per mile, 1,290 miles.
Rate per mile, Coast Line	$0.02	
Fresno-Lathrop	$0.0199	
Fresno-Mendota	$0.0196	
Between Los Angeles and Ogden, Utah:		
Present rate (Southern Pacific Co.)	$40.90	Basis, $27.55 to Sacramento plus $13.35.
Distance—Short Line via Stockton-Lathrop ......miles..	1,140.95	
Rate per mile	$0.0358	
Distance, Benicia-San Francisco-Coast Line ......miles..	1,260.62	
Rate per mile	$0.0324	
Distance, Stockton-Niles San Jose, miles.	1,247.62	
Rate per mile	$0.0319	
Scrip-book net rate on $90 book	$28.53	Basis, 2.5 cents per mile, 1,141 miles.
Rate per mile:		
Stockton-Lathrop	$0.025	
San Francisco-Coast Line	$0.0226	
Stockton-Niles	$0.0228	
Proposed rate	$22.82	Basis, 2 cents per mile, 1,141 miles.
Rate per mile:		
Stockton-Lathrop	$0.02	
San Francisco-Coast Line	$0.0181	
Stockton-Niles	$0.0182	
Between Los Angeles and El Paso, Tex.:		
Present rate	$30.00	Basis, old graded rate.
Distance ......miles..	815.4	
Rate per mile	$0.0367	
Scrip-book net rate on $90 book	$20.40	Basis, 2.5 cents per mile, 816 miles.
Proposed rate	$16.32	Basis, 2 cents per mile, 816 miles.
Between Los Angeles and Portland, Oreg.:		
Rates between Los Angeles and Portland are to-day made the sum of locals Los Angeles to Stockton and Stockton to Portland. Stockton to Portland is same as San Francisco to Portland. The effect on San Francisco-Portland rate is shown herein. The rate between Los Angeles and Stockton is not interstate; therefore the exact effect could not be determined until conditions definitely settled. If a mileage ticket good upon trains and for bearer were in use the local rate would have to be reduced, as any one or a number of passengers on same train could use same book and single-trip tickets at higher rates would not be bought if it could possibly be avoided.		

Effect of the proposed basis upon through fares.

Through fares between important commercial centers in the West are adjusted so as to maintain a parity of conditions, so far as transportation is concerned, between points that are about equidistant, and are more or less competitive as gateways and distributing points, and to afford the widest latitude to competing routes.

To illustrate:

Between Missouri River common points (Omaha to Kansas City, inclusive) and Colorado common points (Denver to Trinidad) rates are the same.

Between Missouri River common points and Utah common points (Ogden and Salt Lake City) rates are the same.

Betweeen Missouri River common points and California common points (all main-line points in California) rates are the same.

Between Texas common points (Houston, Fort Worth etc., which are considered as about on a meridian with Missouri River points) and California common points rates are the same as between Missouri River common points and California common points.

Between Missouri River common points and North Pacific coast common points (Portland, Tacoma, Seattle, Vancouver, etc.) rates are the same, and also same as between Missouri River points and California.

Between St. Paul, Minneapolis, Duluth, and Superior on the one hand and North Pacific coast points on the other hand rates are the same and the same as between Missouri River points and north coast points or California.

The rates between Missouri River points, St. Paul, Minneapolis, Texas points, and the western territory being so adjusted, control and effect the same parity in rates between eastern points and the Pacific coast, Colorado, etc.

An absolute mileage basis has not been used, but the rates have been made as low as deemed proper consistent with fair remuneration for the services performed, the necessities of the business, the free and continued movement of traffic, upbuilding of the country, etc.

If rates are to be made upon a mileage basis one of two courses will have to be adopted:

The parity of conditions will be disturbed, which means that different rates will to a greater or less extent prevail from points heretofore considered as common to points heretofore considered as common, certain routes that have been open to the public at short-line rates will be closed to such competition, decreasing facilities, and localities will have to readjust to the new conditions; or,

The parity will be maintained, which means that the lowest mileage between one of the common points on the one hand and one of the common points on the other hand will be the rate making mileage, resulting in the 2 cents per mile only over that particular mileage and yielding much less per mile over other routes and between other points in the groups of common points.

To illustrate this, the following distances between "common" points are given:

	Miles.
Omaha to—	
Sacramento	1,697
San Francisco	1,786
Los Angeles	1,781
Portland	1,799
Tacoma	1,910
Kansas City to—	
Sacramento	1,927
San Francisco	2,016
Los Angeles	1,762
San Bernardino	1,747
Mojave	1,737
Portland	2,030
Minneapolis to—	
Seattle	1,819
Tacoma	1,861
Portland	1,917
St. Paul to—	
Seattle	1,829
Tacoma	1,871
Portland	1,927
Houston to—	
Los Angeles	1,647
Colton	1,562
San Francisco	2,122
Fort Worth to—	
Los Angeles	1,428
Colton	1,343
San Francisco	1,903

The lowest mileage between a Missouri River gateway and California commercial center is that between Omaha and Sacramento, 1,697 miles. Rate based thereon at 2 cents per mile, $33.94. If routes through southern California adopted same it would force same rate to Los Angeles.

The extent to which lines would go in meeting competition could only be determined after careful examination of the fares.

To illustrate the effect upon earnings per mile it is sufficient to consider a rate between Kansas City and Los Angeles made on 1,762 miles, as applied via some routes over which common rate to-day applies.

	Rate, etc.	Remarks.
Kansas City to Los Angeles:		
Proposed rate	$35.24	Basis, 2 cents per mile, 1,762 miles.
Distance ... miles..	1,762	Via Chicago, Rock Island and Pacific, El Paso; Southern Pacific.
Rate per mile	0.02	
Distance ... miles..	1,807	Via Atchison, Topeka and Santa Fe.
Rate per mile	0.0195	
Distance ... miles..	2,048	Via Union Pacific, Ogden; San Pedro, Los Angeles and Salt Lake.
Rate per mile	0.0171	
Distance ... miles..	2,371	Via Union Pacific, Ogden; Southern Pacific Valley Line.
Rate per mile	0.0148	
Southern Pacific actual	0.0125	See note.
Distance ... miles..	2,491	Via Union Pacific, Ogden; Southern Pacific via San Francisco.
Rate per mile	0.0141	
Southern Pacific actual	0.0113	See note.
Distance ... miles..	2,281	Via Missouri Pacific, Denver and Rio Grande; Denver, Denver and Rio Grande to Salt Lake City and San Pedro, Los Angeles and Salt Lake.
Rate per mile	0.0154	See note.
Distance ... miles..	2,678	Via Missouri Pacific, Denver and Rio Grande, Denver; Denver and Rio Grande to Salt Lake City, and Southern Pacific Valley Line.
Rate per mile	$0.0131	
Southern Pacific, actual	$0.0125	See note.
Distance ... miles..	2,798	Via Missouri Pacific, Denver and Rio Grande, Denver; Denver and Rio Grande to Ogden, Southern Pacific via San Francisco.
Rate per mile	$0.0126	
Southern Pacific, actual	$0.0113	
Distance ... miles..	2,257	Via Missouri, Kansas and Texas, San Antonio, Southern Pacific.
Rate per mile	$0.0156	
NOTE.—The average per mile dividing total distance into total rate is given above. In actual divisions of revenue this would not prevail, as longer lines between same points would have to accept same gross amount as shorter lines. Thus, Southern Pacific west of Ogden would receive same amount as accrued west of Ogden if business moved via Southern Pacific, L. A. & S. L. Hence, Southern Pacific actual returns per mile above shown. In a similar manner the longer line of Missouri Pacific, Denver and Rio Grande would receive east of Ogden and Salt Lake no more than received via Union Pacific Short Line. Hence the actual would be less than above shown.		
The foregoing demonstrates the results that would follow actual application of the basis.		
Between New Orleans and Houston, Tex.:		
Present rate	$10.85	
Distance ... miles..	362	
Rate per mile	$0.03	
Mileage rate, present	$9.05	Basis, 2.5 cents per mile, 362 miles.
Proposed rate	$7.24	Basis, 2 cents per mile, 362 miles.
Between New Orleans and San Antonio, Tex.:		
Present rate	$17.15	
Distance ... miles..	571	
Rate per mile	$0.03	
Mileage rate, present	$14.27	Basis, 2.5 cents per mile, 571 miles.
Proposed rate	$11.42	Basis, 2 cents per mile, 571 miles.
Between New Orleans and El Paso, Tex.:		
Present rate	$33.15	
Distance, Missouri, Kansas and Texas—Galveston, Harrisburg and San Antonio ... miles..	1,194	Texas and Pacific 1,161 miles.
Rate per mile	$0.0269	
Mileage rate, present	$29.02	Basis, 2.5 cents per mile, 1,161 miles.
Proposed rate	$23.22	Basis, 2 cents per miles, 1,161 miles.

Mr. Chairman, as to the effect of this bill, the rate proposed is low to the point of absolute confiscation on all the western and southern railroads. It is quite safe to say that at the present legal rates, nowhere on these lines less than 3 cents per mile, there is not a line of railroad west of the Mississippi and south of the Potomac but does its passenger business at a loss; and it is absolutely safe to say that there is not one whose operating expenses would be anywhere nearly met by a rate as low as two cents a mile. The proposed cut from existing rates, which are nowhere less than 3 cents per mile, is 33⅓ per cent of the passenger rate; and there is not a road in that portion of the Union which I have named which could stand this additional cut without raising its freight rates, and still keep out of the hands of a receiver.

You have before you the testimony of the managers of the Atchison, the Rock Island, the Louisville and Nashville, the Denver and Rio Grande, the Seaboard Air Line, the Southern, the Pennsylvania, as to lines west of Pittsburg, and several other roads, all to that effect; and it must be remembered that in the passenger earnings in the tables which have been exhibited here are always carried mail and express earnings, aiding thus the so-called passenger earnings on the different roads. It should always be kept in mind, too, that in these tables are never included the cost of or interest on the cost of passenger stations and terminals, which are wholly devoted to passenger traffic, and which are in no way connected with freight business; nor is there ever carried into these tables any depreciation of passenger plants nor taxes upon the passenger plants.

This question of figuring cost on the railroads is a very difficult one. While many items in the long list of expense accounts are clearly passenger expenses or clearly freight, there is a very large list, constituting the major portion of the expenses, which can only be divided as between passenger and freight business on some theoretical basis. But there is no settled official basis for division. At one time the Interstate Commerce Commission attempted to make a division of the expenses as between freight and passenger business, and the published reports were made accordingly. The latest such report was in the year 1893, when, of the total operating expenses and fixed charges on the railroads, it was found that 31.78 per cent of the expenses of the roads in this part of the country were chargeable to passenger business. Using this basis of dividing expenses we find the cost for transporting passengers per train-mile to be as follows on the various groups of railroads before referred to, and on several railroads where I have figured it; for convenience I repeat opposite the cost the average income per train-mile as previously shown, to wit:

	Cost per train mile.	Revenue per train mile.
Group 1	$0.90	$1.14
Group 2	1.26	.97
Group 3	1.23	.87
Group 6	1.14	.88
Chicago and Northwestern Railway	1.00	.83
Chicago Milwaukee and St. Paul Railway	1.17	.91
Chicago Burlington and Quincy Railroad	1.03	.90

I do not claim that these figures absolutely represent the cost, but they do represent the cost figured on the only official basis I have been able to find, which was that used by the Interstate Commerce Commission in 1893, their last report on that subject, and it will be seen that on the railroads in every group, except on the New England railroads, the cost of doing passenger business exceeds the income per train-mile. Various accountants, using varied methods of figuring expenses, come at a somewhat different result, but without exception they all arrive at the one definite conclusion that the passenger business on the railroads in the middle West, the territory between Chicago and the Rocky Mountains, is done at a loss. There is nothing strange about this when it is remembered that, unlike New England, where the passenger business on many of the railroads is the major and most important part of the traffic, the passenger business on the western railroads is a small part of the total business of the company, and is, to some extent, an incident of being in business at all. This question of loss on the western railroads is not so serious nowadays as it used to be years ago, when the railroad was built into new regions and passenger trains were run before there was any business to move—and this was done for the purpose of developing the country. But to some extent that method of conducting railroad business is still in vogue in the West and the passenger trains are in many cases rnn without profit, and in some cases at a direct loss for operating expenses alone, for the sole purpose of furnishing the people with a reasonable communication with the outside world, and with reasonable mail and express facilities, and to furnish the intending land seeker and prospective business man a reasonable opportunity to look the country over. By way of illustrating this fact, just note the following earnings per train-mile on certain Burlington branch passenger trains, to wit:

Chicago, Burlington and Quincy Railway passenger train earnings, year 1903.

	Per mile.
Keokuk and Red Oak (Keokuk and Western division)	$0.68
Red Oak and Nebraska City	.44½
Van Wert and Des Moines	.69
Burlington and Oskaloosa	.32
Creston and St. Joseph:	
One train	.70
The other train	.77½
Villisca and Clarinda	.23½
Villisca and St. Joseph	.88

Averages on some of the Chicago, Rock Island and Pacific Railway trains in Iowa for 1903.

	Per mile.
Indianola and Winterset	$0.73
Guthrie Center branch	.41
Griswold branch	.59
Carson branch	.40
Sibley branch	.34
Keosauqua branch	.29
Clinton and Davenport branch	.38
Montezuma branch	.54
Sioux Falls branch	.39

I will also insert here official tables of the Pennsylvania Railroad of its passenger business for 1904 on its lines west of Pittsburg, showing 32 lines of road independently operated, and on those an absolute

large loss on 20 of these 32 lines in their passenger business; a very small profit only on 12 lines, and this directly attributable to the large mail and express business on these 12 lines:

PENNSYLVANIA LINES WEST OF PITTSBURG.

Average passenger earnings, expenses, and net earnings per mile, year ending December 31, 1904.

	Per passenger per mile.		
	Earnings.	Expenses.	Net.
	Cents.	*Cents.*	*Cents.*
Pittsburg, Fort Wayne and Chicago Railway	1.98	2.06	a 0.08
Massillon and Cleveland Railroad	0.91	0.38	0.53
New Castle and Beaver Valley Railroad	2.64	1.32	1.32
Pittsburg, Youngstown and Ashtabula Railroad	2.37	3.35	a 0.98
Erie and Pittsburg Railroad	2.31	2.62	a 0.31
New Castle Branch, Western New York and Pennsylvania Railway	2.57	2.60	a 0.03
Cleveland and Pittsburg Railroad	2.08	2.13	a 0.05
Pittsburgh, Ohio Valley and Cincinnati Railroad	2.75	7.82	a 5.07
Toledo, Walhonding Valley and Ohio Railroad	1.68	2.16	a 0.48
South Chicago and Southern Railroad	1.22	3.32	a 2.10
Cleveland and Marietta Railway	2.33	2.25	0.08
All lines operated directly by the Pennsylvania Company	2.01	2.13	a 0.12
Pittsburgh, Cincinnati, Chicago and St. Louis Railway	1.96	1.94	0.02
Little Miami Railroad	1.76	2.01	a 0.25
Chartiers Railway	1.99	1.45	0.54
Pittsburgh, Wheeling and Kentucky Railroad	2.41	2.05	0.36
Indianapolis and Vincennes Railroad	2.34	2.06	0.28
All other lines operated directly by the Pittsburg, Cincinnati, Chicago and St. Louis Railway Company	1.95	1.94	0.01
Grand Rapids and Indiana Railway	2.07	1.80	0.27
Muskegon, Grand Rapids and Indiana Railroad	1.33	1.43	a 0.10
Traverse City Railroad	2.36	2.88	a 0.52
Cincinnati, Richmond and Fort Wayne Railroad	2.41	2.46	a 0.05
Cincinnati and Muskingum Valley Railroad	2.17	2.62	a 0.45
Waynesburg and Washington Railroad	2.78	2.59	0.19
Pittsburgh, Chartiers and Youghiogheny Railway	2.26	3.90	a 1.64
Cleveland, Akron and Columbus Railway	1.72	1.76	a 0.04
Cincinnati, Lebanon and Northern Railway	1.21	2.81	a 1.60
Toledo, Peoria and Western Railway	2.44	2.26	0.18
Central Indiana Railway	2.68	6.00	a 3.32
Terre Haute and Indianapolis Railroad	1.68	1.37	0.31
St. Louis, Vandalia and Terre Haute Railroad	1.83	1.29	0.54
Terre Haute and Logansport Railway	2.00	2.19	a 0.19
Logansport and Toledo Railway	2.14	2.96	a 0.82
Terre Haute and Peoria Railroad	2.40	3.78	a 1.38
All lines operated under their own organizations	1.94	1.77	0.17

a Loss.

20 roads show net loss per passenger per mile.
12 roads show net earnings per passenger per mile.

NOTE.—The reason that in some cases a loss is shown per passenger mile and a profit per passenger train mile is because the earnings per passenger train mile include mail and express.

These examples of conditions are given to show that where conditions are very favorable the passenger business of the railroads of the Union, at the present rates, is done at a loss. It is, therefore, perfectly apparent why, upon all the western and southern roads, no profit, but still greater losses occur which are made good out of the freight earnings, or by bond issues to meet floating debt.

The reasons have been fully shown. In all these ill-favored sections of the Union there is the lack of density of population, and of course the density of traffic necessary to make even a paying condition in passenger rates. In these sections of the Union there are comparatively few passengers, and small, light trains, which are never utilized to their average capacity, except in an occasional emergency. Every transportation authority recognizes this principle—that cheap passenger fares must be preceded by an actual density of traveling population. The standard of high speed, additional trains, more modern

and expensive equipment, special accommodations, as for excursions and party rates, and so forth, must be provided to meet the public demand; and all these conspire, as to all roads in the West and South, to the public service at an actual loss on passenger business at the existing regular rates, which, as I have shown, are never less than 3 cents per mile.

Let another thing be remembered here. In these recent years everything, practically purchased by the public, has largely increased in value and cost. So much so, that wages and salaries to employees and officials have been correspondingly increased to meet the situation as to prices of commodities and expense of living.

In railroad operating, the same condition exists. Everything the railroad company requires, has largely increased in cost. Better facilities of travel, better equipment of trains, better speed and more frequent trains are demanded by the public, and invariably supplied by the roads, and without any corresponding increase of rates.

Now come these bills, and by them it is seriously proposed, not to meet the increased expenses of train operations because of better facilities, but to reduce the rates of an already losing, unprofitable business, by at least 33⅓ per cent. Except in Ohio, the legal rate is nowhere less than 3 cents per mile: as shown, that does not pay operating expenses on western and southern roads. A cut to 2 cents, as proposed, reduces the income 33⅓ per cent upon a buisness already unprofitable. The injustice of this proposal is apparent.

How then, as a practical question before this committee, must rates for passenger fare be made for all the different roads and systems of roads in the Union? It has been clearly demonstrated to this committee, and not disputed by a single voice, that in different parts of the country all the conditions upon which proper-rate making can be based are so varying, so different, that no rate "per mile" based upon these conditions of any line East, can be properly applied to any line West.

These conditions are not in any way similar, even in one element, when applied to two different lines, much less substantially identical, as the law requires, before a blanket uniform rate can be applied to all, as is proposed by these bills. Therefore statistics as to each road must be gathered and treated separately by the rate-making power, unless it shall appear that, as to some roads, conditions as a whole are so similar that they may be grouped, and then as to rates may be treated alike. But this requires careful examination of all the facts as to each road. It can never be done on the basis of "per mile" or "per passenger," nor will any division of freight or passenger expenses yield results near enough to be of any practical use to the rate-making power. The Interstate Commerce Commission abandoned that idea in 1892 and they have never revived it. Congress can never undertake to examine and determine conditions as to all elements of just rates on the different lines of road in the Union. It can only act by committees in that regard. This committee would be the appropriate one. Every member of this committee would testify, if asked, that he could not if he would, with his other duties pressing, in a whole session work out the single case of Smythe *v.* Ames, which involved only the relations of the Union Pacific and three small roads to the people of Nebraska alone.

The impossibility of dealing with the whole field of the different roads in the Union as a whole by Congress is well illustrated by the parliamentary history of these bills now before the committee. Will the gentleman from Ohio [Mr. Kennedy] pardon a personal reference to his bill, H. R. 22133? It proposes a general blanket passenger rate of 2 cents per mile, tickets to be good upon the trains of any railway in the United States, and so forth.

Now, Ohio has such a rule as to State traffic, and undoubtedly such condition in his own State was the inspiration of his bill here. Equally, surely, this bill was the expression of the best judgment of the gentleman from Ohio, when it was introduced, as the best method of dealing with this great subject by Congress. But since the discussion here has progressed, the gentleman from Ohio has, with commendable frankness, openly announced that the principle of his bill, a general blanket rate, has been abandoned by him, and that he proposes to present the proposition of a classification of the different rates, based upon gross receipts, and a graduated scale of rates based thereon. I may say here that that plan can never be properly adopted, for reasons easily given, if the subject were being discussed.

This shows the inherent difficulty in dealing with the question of any arbitrary fixing of uniform passenger rates applying to all roads, and especially by Congress. I undertake to say that not a member of this committee could or would attempt to go to the bottom of the necessary investigation, even if he could settle upon some plan which he regarded as legal. Therefore, if any change in rate is to come, who shall determine that change? Congress can not perform this work. The field is too broad, the labor too unwieldy, and the details too vast. Nor ought Congress to attempt it. Conditions in the country are constantly changing. Sessions of Congress are held only once in two years. These changing conditions as to some roads might require a change in rates as well as the curing of defects in the legislation would require it.

This recalls the colloquy between you, Mr. Chairman, and Mr. Ryan, of the Seaboard Air Line, at a former meeting. You put him this query:

"Have you any plan to suggest?" And you said: "Your idea is that of the graded school, that regulates the progress of every scholar by the stupidity and incapacity of the inferior scholar in the class."

You followed that with this statement:

The CHAIRMAN. Let me in this connection, or in connection with the query that I put to you, remind you that all gentlemen who have appeared before this committee when we have been discussing rate legislation, have urged that the Interstate Commerce Commission be not given the initiative in the establishment of rates. All the corporations have objected to that, and nothing of that kind has been done. But when we then attempt legislation that must be uniform in its character you inveigh against that because of its inequalities of operation. Now, the Congress must either act in this matter of establishing a rate that would be uniform, or the Interstate Commerce Commission or some other tribunal must be given the power so that they can differentiate between the different roads, the strong and the weak, unless you gentlemen can help us to some solution of the matter. You are the men who, above all others, are familiar with the subject, and should know, if anybody knows, what can be done, so that justice can be done to the weak line as well as to the strong line. But you content yourselves invariably with inveighing against whatever is proposed, and up to this time, so far as I have been a member of the committee, and, so far as I can recell, no one of you has ever made a suggestion in the way of a solution of the difficulty. Now I think that is scarcely fair.

Your allusion to the graded school was not happy. The roads opposing these bills are not urging any handicapping of the "brighter, better" roads. They are protesting against the applying to them, in their inferior condition, the same rules and regulations given their more prosperous fellows in the East.

They ask you not to put upon them, the "inferior scholars" in the class, the same tasks which you, as master of the school, put upon the brighter, superior fellows; tasks which they can perform, but which we inferior fellows can not. By these bills you determine what the bright fellows can do, and then demand that we do the same, when you will admit we can not.

But let me attempt to answer your real query, "What is the solution of this matter?" But for your modesty, Mr. Chairman, you might have answered your own question by saying, the "railroad rate bill of June 29, 1906, bearing your name, is the solution of the whole matter and an ample one."

By general law, the carrier may fix his own rates in the first instance—these must be reasonable; when schedules are made, filed, and posted, they are presumed to be reasonable until complained of.

Under sections 9 and 15 of the act full power is given to determine and fix a reasonable rate, if the published rate is found unreasonable. The act is complete and a full protection to the public. The whole matter should be left just where it is—so far as general legislation goes—with the Interstate Commerce Commission. There is no demand from a Federal standpoint for any change in existing rates.

I ask where have the roads generally failed to respond to any public demand for additional facilities for travel or more reasonable rates? Who is complaining here, so far as known? To this date not a voice is heard nor a letter read asking for this legislation.

Existing law fully protects the people. Every road has filed its schedules. When approved they have the force of law until modified. If the rates in any case are unreasonable the wrong is never against the individual citizen but a community.

A alone is not injured, but B, C, and all in that community who travel. In such case complaint is at once made and investigation had by a body specially adapted to that end.

I have said there was no demand for this legislation: there is no need for it. I am told there is not now a single case before the Interstate Commerce Commission for alleged unreasonable charges in passenger rates. I am also told that there has never been a case decided by the Commission sustaining the claim of unreasonable passenger rates. Never one decided, moreover, requiring less than three cents per mile.

In dealing with the regulation of both passenger and freight charges, Congress passed the recent rate bill, placing the full power of regulation in the hands of the Commission. Seventeen States in the Union have done the same thing, recognizing the propriety, indeed, the necessity, of such a body to treat this question. The same difficulties arise in passenger as in freight transportation, and whatever course is best as to forum as to one is best as to the other. Congress wisely confided the whole subject to the Commission, but by this legislation proposes to take from the Commission the power to consider individual cases and settle by one swoop the whole question of passenger rates without hearing, and without redress except in the courts.

The people are content with commission regulation. (State Railroad Commission, 103; same in California, Michigan, and Minnesota.) Where Commission regulation has been adopted in States, no proposal has been made to change it to legislative action. The Supreme Court says that is proper tribunal. (Smythe *v.* Ames, 169 U. S., 527.)

The people are safe in the hands of such a tribunal—one created by Congress, composed of men of character, ability, and fitness for the responsible positions they occupy.

In no case, up to this date, have the Commission failed to act up to the highest standard of duty as to protection to the people.

The railroad systems of transportation have so grown in this generation that they have become the most important and valuable factor in the field of human endeavor. The world's entire stock of money of every kind—gold, silver and paper—would not purchase one-third of its railroads and equipments. The railroad system of this country as a whole, is the grandest construction of physical properties in the world. With all its varied conditions, under the guiding hands of men of genius, working for harmonious relations, through and with the different roads, a result is had already. Smooth in operation, excellent and satisfactory in results, giving the best and cheapest passenger service in the world. Some minor defects undoubtedly exist, but existing law furnishes ample, speedy, and full means of correction.

But these bills suddenly thrust discord and confusion into the whole system now so well in hand. Existing law, the present Commission, with its full powers, is the result of the best efforts of the distinguished men in Congress, who acted in perfecting the existing rate bill. I submit that it is the part of wisdom to give the law a fair trial, making haste slowly as to radical changes in principle. Conservative action now is demanded by the important interests involved. The goal of success was reached in the matter of railroad rate regulation in the late legislation. Let us give it a fair trial as to practical operation before considering even such radical legislation as this.

These bills are against reason, principle, and authority, and, I submit, respectfully, but earnestly, ought to be rejected by the committee.